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DOCKET ENTRIES

No. 14,398

ROY J. UNDERWOOD

vs.

WILLIAM E. MALONEY, Individually and as Representative of the International Union of Operating Engineers

1952		
Oct.	30	Complaint filed.
"	30	Summons exit.
Nov.	10	Summons returned Oct. 31, 1952 "served" and filed.
"	20	Motion by International Union of Operating Engineers to Dismiss filed.
"	20	Motion by William E. Maloney to Dismiss filed.
"	21	Order to issue alias summons filed.
"	21	Alias summons exit.
"	26	Alias summons returned "on November 25, 1952 served" and filed.
Dec.	15	Motion of William E. Maloney to dismiss action and affidavit in support of motion, filed.
"	15	Motion of International Union of Operating Engineers to dismiss action and affidavit in support of motion filed.
1953		
Jan.	14	Amendment to complaint filed.
"	19	Argued sur Motion to Dismiss. CAV
May	7	Opinion, Clary, J. denying motions to dismiss, etc., filed.
"	7	Order of Court denying motions to dismiss and granitng leave to file Amended Complaint within 20 days, filed. Noted and notice mailed 5/8/53.
"	27	Amended Complaint filed.
"	28	Notice of taking deposition of William E. Maloney filed.

June	2	Stipulation and Order extending time for filing answer etc., to amended complaint, filed. 6 3 53 noted.
"	16	Motion for redress against defendants for failure to make discovery.
"	16	Hearing sur motion for redress, etc. Eo Die: The Court directs counsel to continue with depositions.
"	16	Motion by defendants for Judgment or to strike, filed.
"	18	Transcript of hearing on June 16, 1953 filed.
July	22	Deposition of Wm. E. Maloney, filed. (2 vols.)
"	22	Plaintiff's motion for judgment under Rule 37, filed.
"	22	Defendants' motion to vacate plaintiff's notice of oral examination, etc., filed.
"	23	Hearing sur Plaintiff's Petition for Judgment and sur Defendants' Motion to Vacate Plaintiff's notice of oral examination, etc.
"	23	Order dictated to stenographer—to be effective when filed.
"	27	Transcribed Order of Court sur Taking of oral deposition filed. 7 28 53 Noted & Notice mailed.
"	31	Transcript of 7 22 53 filed.
"	31	Transcript of 7 22 53 filed.
Sept.	14	Argued sur defendants' motion for Judgment, etc. CAV
"	24	Order denying defendants' Motion for judgment, etc., filed. 9 25 53 noted & notice mailed.
Oct.	5	Stipulation and Order extending time for filing answer to amended complaint to 10 9 53 filed.
"	9	Answer to Amended Complaint filed.
"	19	Defendants' demand for a jury trial, filed.
"	22	Motion for Order vacating plaintiff's notice of taking depositions of Joseph S. Fay filed.

"	22	Motion for Order vacating plaintiff's notice of taking depositions of Victor S. Swanson, et al., filed.
"	22	Motion for Order vacating plaintiff's notice of taking depositions of Alfred R. Loss, et al., filed.
"	23	Plaintiff's Answer to Defendants' Motion to Vacate Notice of taking Depositions of Joseph S. Fay filed.
"	23	Plaintiff's Answer to Defendants' Motion to Vacate Notice of taking Depositions of John J. McDonald & Victor S. Swanson filed.
"	23	Plaintiff's Answer to Defendants' Motion to Vacate Notice of taking Depositions of Alfred R. Loss, et al., filed.
"	29	Transcript of 10/26/53, sur Motion for Continuance of Argument, filed.
Nov.	3	Hearing sur Defendants' Motion for Order vacating plaintiff's Notice of taking Depositions. CAV
"	3	Transcript of testimony of Wm. E. Maloney taken before trial, filed. (2 vols.)
"	5	Order denying defendants' Motion without prejudice to vacate and set aside plaintiff's notice of taking depositions of Joseph S. Fay filed. 11/6/53 noted & notice mailed.
"	5	Order granting defendants' Motion without prejudice to vacate and set aside plaintiff's notice of taking depositions of Alfred R. Loss, et al., filed. 11/6/53 noted and notice mailed.
"	5	Order dismissing defendants' motion, without prejudice, to vacate and set aside plaintiff's notice of taking depositions of Victor S. Swanson, et al., filed. 11/6/53 noted & notice mailed.
"	16	Order to place case on jury trial list filed.

Dec.	1	Transcript of Nov. 3, 1953, filed.
"	4	Order amending Order of 11/5/53, and denying Motion of defendant to vacate and set aside plaintiff's notice of taking depositions of Joseph S. Fay, etc., filed. 12/7/53 noted & notice mailed.
"	31	Transcript of meeting in re production and identification of documents in accordance with Order of 7/27/53, filed. (2 vols.)
"	31	Deposition of Victor S. Swanson filed.
"	31	Deposition of Victor S. Swanson and John J. McDonald filed.
"	31	Transcript of further identification of exhibits filed.

1954

Jan.	25	Petition for and Rule to Show Cause why defendant Wm. E. Maloney should not be held for contempt — rule returnable March 22, 1954, filed.
Feb.	16	Deposition of Joseph S. Fay, filed.
"	26	Petition of plaintiff for protective order under Rule 30 filed.
Mar.	8	Answer of Wm. E. Maloney to petition for attachment for contempt, etc., filed.
"	8	Answer to plaintiffs' Petition for Protective Order, filed.
"	22	Hearing sur rule to hold defendant in contempt; and sur plaintiff's motion for protective order. CAV
Apr.	8	Transcript of hearing of 3 22 54 filed.
July	28	Opinion, Clary, J., sur motion to hold defendant in contempt and sur motion for protective order, filed.
"	28	Order of Court denying motion to hold defendant in contempt and for judgment; granting

to a limited extent plaintiff's motion for protective Order; and directing that plaintiff's costs in taking discovery deposition of Wm. E. Maloney be paid by defendant, filed. 7/29/54 noted & notice mailed.

Nov. 19 Plaintiff's notice of taking deposition of George Meany, filed.

Dec. 10 Deposition of George Meany, filed.

1955

Feb. 1 Transcript of further examination on Nov. 30, 1954 of Wm. E. Maloney, filed.

Mar. 3 Motion of Plaintiff for Preliminary Injunction and Order of Court granting rule on defendants' to show cause why injunction should not issue, filed. Returnable 3-4-55 3-4-55 noted.

" 4 Hearing sur Motion for Preliminary Injunction.

" 4 Order granting temporary injunction against Wm. E. Maloney and Hunter P. Wharton, Ind. etc., filed. 3/7/55 Noted & Notice Mailed. Security to be entered by plaintiff in the sum of $2,000.

" 4 Preliminary Injunction Bond in $2,000 with U. S. Fidelity & Guaranty Co., as surety, filed.

" 22. Transcript of testimony of hearing on motion for preliminary injunction, filed.

Sept. 29 Plaintiff's notice of taking deposition of J. Howard McGrath, filed.

Nov. 7 Defendants' motion and Notice of motion to compel Roy J. Underwood to answer certain questions on Depositions and to produce certain documents, filed.

Dec. 13 Motion to compel defendants' Maloney, et al., to answer quesitons on oral examination, etc., filed.

"	13	Plaintiff's Petition for counsel fee and expenses pursuant to Order of Court dated July 28, 1954, filed.
"	13	Pre-trial Hearing (transcript of hearing to be Order)
Dec.	20	Transcript of hearing of 12-13-55, filed.
1956		
Jan.	12	Order denying plaintiff's motion for production of William E. Maloney's income tax return for 1952 filed. 1/13/56 noted and notice mailed.
Mar.	28	Pre-Trial Hearing (Chambers)
Apr.	3	Transcript of Pre-Trial Hearing filed.
May	2	Order directing plaintiffs, within 15 days from this date, to identify the specific members of the Union who constitute the representative group in this class action, filed. 5/3/56 noted & notice mailed.
"	29	Transcript of testimony (12 volumes) filed.
June	18	Hearing sur Motion for protective Order. (transcript to be filed)
"	18	Appearance of Cornelius C. O'Brien, Jr., Esq., for defendants filed.
"	20	Transcript of hearing of 6-18-56 (in chambers) filed.
"	27	Transcript of hearing 6-21-56 (in chambers) filed.
July	3	Deposition of Roy J. Underwood filed. (6/12/56)
"	3	Deposition of Roy J. Underwood filed. (6/20/56)
Aug.	30	Deposition of Harry R. Halloran, filed.
"	30	Plaintiff's motion to compel Harry R. Halloran, to answer questions filed.
"	30	Pre-Trial Hearing.
"	30	Deposition of J. H. McGrath (continued) filed.

Sept. 18 Answer of Harry R. Halloran to plaintiff's motion to compel Harry R. Halloran, a witness, to answer questions, filed.

1957

Feb. 4 Trial-witnesses sworn.

" 5, 6, 7, 11, 12, 13, 14, 25, 26, 27, 28; Mar. 4, 5, 6, 7, 11, 12, 18, 19, 20; Apr. 23. Trial.

" 28 Deposition of J. Howard McGrath, filed.

Mar. 18 Motion of defendant to Dismiss filed.

" 18 Motion of defendant to strike portions of plaintiff's evidence filed.

" 27 Transcript of 3 22 57 filed.

May 3 Testimony filed. (23 vols.)

" 3 Argued sur P. & P. CAV

" 6 Transcript testimony 5 3 57 filed.

" 15 Consolidated index of witnesses and exhibits filed.

" 23 Plaintiff's requests for findings of fact and conclusions of law, filed.

" 23 Defendants' requests for findings of fact and conclusions of law, filed.

" 23 In open court opinion sur P. & P. rendered orally.

" 23 Order of Court entering judgment in favor of defendant and against plaintiff filed: 5 24 57 noted & notice mailed.

" 23 Order dissolving temporary injunction entered 3 4 55 filed.

" 31 Plaintiff's exceptions to findings, conclusions, and statements rendered orally, by the Court, filed.

" 31 Plaintiff's notice of appeal, filed.

" 31 Copy of Clerk's Notice to U. S. Court of Appeals, filed.

June	3	Notice of Appeal by plaintiff (from Order dissolving temporary injunction) filed.
"	3	Copy of Clerk's Notice to U. S. Court of Appeals, filed.
"	6	Record transmitted to U. S. Court of Appeals.
"	6	Findings of Fact, Conclusions of Law, and Opinion of the Court, Clary, J., filed. Noted 6/6/57
"	6	Supplemental record transmitted to U. S. Court of Appeals.
"	11	Transcript of poceedings on June 7, 1957, filed.
"	12	Supplemental record transmitted to U. S. Court of Appeals.
"	12	Certified copy of Order of U. S. Court of Appeals granting Injunction and requiring bonds of $2,000.00 each filed.
"	14	Plaintiff's injunction bond in $2000. with United States Fidelity & Guaranty Co., surety, approved and filed.
"	25	Defendant's injunction bond in $2000 with Indemnity Insurance Company of North America as surety, approved and filed.

ERRATUM

All the testimony appearing on page 781a and and the first five lines of testimony appearing on page 782a are not in order. This testimony is from the deposition of William F. Maloney and follows line 1 on page 725a. It has been reprinted and tipped in opposite page 725a.

AMENDED COMPLAINT

No. 14,398

ROY J. UNDERWOOD

v.

WILLIAM E. MALONEY, *Individually and as Representative of the International Union of Operating Engineers.*

1. Plaintiff, Roy J. Underwood, is a citizen of the Commonwealth of Pennsylvania, and at all times mentioned hereinafter was the duly elected President and Business Manager of Local Union 542 and its branches, 542A, 542B and 542C, of the International Union of Operating Engineers.

2. Local Union 542 and its branches, 542A, 532B and 542C, hereinafter referred to as Local 542, is a labor union engaged in the building and construction trades industry in interstate commerce operating under a charter issued by the International Union of Operating Engineers on December 31, 1939. The said charter granted local autonomy and vested the said Local 542 with exclusive jurisdiction within the Eastern half of Pennsylvania and the State of Delaware. The membership of Local 542 is composed of engineers, oilers and firemen, hereinafter referred to as Engineers.

3. Defendant, William E. Maloney, is a citizen of the State of Illinois and is General President of the International Union of Operating Engineers.

4. The International Union of Operating Engineers, hereinafter referred to as the International, is a labor union affiliated with the American Federation of Labor, with its principal office in Washington, D. C.

5. Plaintiff, Roy J. Underwood, was first elected by the membership of Local 542 as President and Business Manager on March 25, 1948, for a term to expire in June, 1949. He was subsequently re-elected for a second term in

June, 1949 to June, 1950, and he was again re-elected for a third term of four years from June, 1950 to June, 1954.

6. During the entire period of plaintiff's tenure in office, plaintiff managed the affairs of the Union in a highly satisfactory and successful manner, and he conducted himself in all respects in full accord with the law and in the best interests of the Union and its membership.

7. Shortly prior to May 1, 1952, Local 542 effected a new agreement with the majority of employers to replace the existing agreement which was scheduled to expire on the latter date. However, no agreement could be effected with a small minority of employers as a consequence of which a strike resulted against the latter group.

8. The said strike was authorized and directed by a vote of the membership of Local 542, and its officers were instructed to carry on the strike to a successful conclusion. Plaintiff, as President and Business Manager of the Local, carried on the strike in accordance with the mandate of the membership and with the advice and aid of the Executive Board of the Local.

9. The said strike was carried on with the full knowledge and consent of the International and was officially assisted by the International through its General Vice President, John J. McDonald.

10. After the strike had been successfully carried on for a number of weeks and various attempts by the employers to break the strike had failed, certain representatives of the employers made contact with defendant William E. Maloney, General President of the International, and improperly influenced him to use all his authority and the power of his office to break the strike of the Local and to remove plaintiff from office.

11. Pursuant to an understanding with the employer representatives, defendant Maloney brought pressure to bear upon plaintiff to terminate the strike without the consent of and without the vote of the Local's membership, and

to abandon the demands for which the strike was being carried on.

12. Plaintiff declined to call off the strike or to abandon the demands of the Local without a vote of the Local membership. Defendant Maloney then ordered plaintiff to call a meeting of the Local and to advise the membership of his (Maloney's) instructions.

13. In compliance with the direction of defendant Maloney, plaintiff called a meeting of the membership on August 5, 1952, and informed them of defendant Maloney's demands. The membership voted to maintain their demands and to continue the strike.

14. Following the meeting of the membership aforesaid, General Vice President McDonald, by written communication, attempted to arrange for a conference between the employers and the Local's representatives for the purpose of discussing the demands of the Local and working out a satisfactory settlement. A true and correct copy of the said communication is hereto attached and marked "Exhibit 2-C".

15. In response to the said communication, a meeting was arranged with certain of the employers, whereupon defendant Maloney, pursuant to a conspiracy with other employer representatives, caused said meeting to be cancelled and issued a written order intended to break the strike and compel the membership to abandon their demands. A true and correct copy of the said order is hereto attached and marked "Exhibit 2-D". The said order of defendant Maloney was a violation of the constitution of the International, which, inter alia, gave the Local the right to make its own contracts and the right to carry on a strike.

16. Because compliance with the order of defendant Maloney would break the strike and destroy the Local's bargaining position, the Executive Board of the Local went into immediate session and resolved to take immediate legal action to test the validity of defendant Maloney's order.

Accordingly, the Board directed plaintiff to authorize counsel for the Local to institute immediate legal action to restrain Maloney from enforcement of his order and to test its validity.

17. Pursuant to that resolution of the Executive Board of the Local, a complaint was filed in the United States District Court for the Eastern District of Pennsylvania on August 12, 1952, entitled Civil Action No. 14,071, seeking a declaratory judgment with a stay of proceedings in the meanwhile. The case came on for hearing before the Honorable Allan K. Grim on August 14, 1952, upon a motion for a preliminary injunction. At the suggestion of the Court, the proceedings were recessed and the parties adjourned to the Court's chambers in order to explore the possibilities of a settlement. As a consequence of the discussions in chambers, a tentative settlement was reached, subject to approval of the membership, whereby the demands of the Local were to be submitted to arbitration and the men to return to work in the meanwhile. The said settlement proposal was agreed to by defendant Maloney, and on August 18, 1952, the Local's membership, at a special meeting, voted to accept the proposal and to return to work the following morning.

18. The following morning, August 19, 1952, at 10:00 a.m., counsel for the Local reported to the Court, with all parties present, that the Local's membership had approved the agreement and had already returned to work. Immediately thereafter, at about 11:00 a.m. the same morning, defendant Maloney issued a new order "invoking supervision" and he took immediate exclusive control over all the assets and affairs of the Local and suspended plaintiff, without any hearing, from performing any of the functions of his office as President and Business Manager. A copy of the said Order is hereto attached and marked "Exhibit 2-E".

19. Thereafter, charges were preferred against the plaintiff to the General Executive Board of the Interna-

tional, alleging that by the filing of the lawsuit aforementioned, plaintiff had (1) deliberately defied the constitutional authority of General President Maloney, (2) circumvented the constitution by filing a lawsuit when no complaint or charge had been filed with the International Union, and (3) used the lawsuit as a means to charge the General President with reprehensible, derogatory and illegal conduct. A copy of the said charges is hereto attached and marked "Exhibit 1".

20. Plaintiff filed an answer to the charges, denying that he had violated the International Constitution, and set forth his defense to the charges. A copy of the said answer is hereto attached and marked "Exhibit 2".

21. The charges came on for hearing before the General Executive Board of the International Union on September 17, 1952. At this hearing plaintiff was denied the right to counsel although the General Counsel for the International Union appeared against him; the proceedings were not reported; there was no examination or cross-examination of any witnesses; no proper evidence was introduced to support the charges and no evidence was introduced to dispute the truth of the allegations contained in the complaint regarding the conduct of defendant Maloney which was alleged in the charges to be reprehensible, derogatory and illegal; the said General Executive Board did not render free and independent consideration and judgment but was at all times dominated, controlled and improperly coerced and influenced by the said defendant Maloney; there was no due process of law accorded to plaintiff, and the said proceedings did not constitute a hearing within the meaning of that term.

22. Following the said "hearing", a decision was rendered by the General Executive Board, allegedly unanimous, removing plaintiff from office, suspending him from membership and all activities in the Union for a period of six years and fining him the sum of Thirty-five Hundred Dollars ($3,500.00). The said decision is hereto attached

and marked "Exhibit 3". The accompanying opinion allegedly supporting it is not based upon any facts or evidence adduced at the "hearing", and the said decision is contrary to law.

23. Plaintiff alleges that the said charges were instigated by, and the said decision was controlled by defendant Maloney, all of which was done in bad faith and for improper and illegal purposes.

24. As a consequence of the aforesaid decision, plaintiff will lose valuable property rights, including his position as President and Business Manager of Local 542; his interest in the assets of Local 542 and his right to benefits from the various funds and projects, inter alia; his right to work and earn a livelihood will be greatly damaged and impaired.

25. As a direct result of the said decision, plaintiff Underwood will be precluded from carrying on the functions of the office to which he was elected by the membership of Local 542.

26. By reason of the aforesaid wrongful action, plaintiff Underwood has been irreparably damaged in his reputation, particularly among people in his chosen occupation and his earning capacity will be very materially impaired, for which plaintiff seeks compensatory and exemplary damages in the sum of Two Hundred Fifty Thousand Dollars ($250,000.00).

WHEREFORE, plaintiff, being without adequate remedy at law and being in need of immediate relief, prays you Honorable Court as follows:

(a) that defendant Maloney and the International Union be enjoined from enforcing its decision rendered on September 24, 1952, and that the said decision be reversed and voided;

(b) that plaintiff Underwood be restored to his position as President and Business Manager of Local 542 with the right to conduct the affairs of the said Local Union free from interference by defendants;

(c) that the defendants be restrained from interfering in any way, directly or indirectly, with the plaintiff in the performance of his duties as President and Business Manager of Local 542;

(d) by awarding damages to the plaintiff in the amount of Two Hundred Fifty Thousand Dollars ($250,000.00);

(e) such other and further relief as the plaintiff may be entitled to receive in the premises.

FREEDMAN, LANDY AND LORRY
By ABRAHAM E. FREEDMAN,
Attorneys for Plaintiff

Exhibit 1

To the General Executive Board,
International Union of Operating Engineers,
1003 K Street, N.W.,
Washington, D. C.

In re: Local Union 542, International Union of Operating Engineers
Philadelphia, Pa.

Dear Sirs and Brothers:

An important matter which I desire to bring to the attention of the General Executive Board has to do with the filing of a very serious lawsuit by Brother Roy J. Underwood and his attorney against the International, its General President and General Officers.

Charges in lawsuit alleged misconduct on the part of the General Officers, alleged improper and illegal conspiracy with third persons, alleged improper relations between J. Howard McGrath and the General President, alleged violation of the Clayton and Sherman Acts through a conspiracy by the General President to defraud the members.

The lawsuit presents an outstanding example of a document which defames our General Officers. Here was a triple violation of the Constitution of our International Union by Brother Underwood, who as President and Business Manager of Local Union 542 was supposed to know the rules of the organization, and these violations were:

1. The deliberate defying of the Constitutional authority of the General President.

2. Circumventing the Constitution by filing a lawsuit when no complaint or charge had been filed within the International Union.

3. Using the lawsuit as a means to charge the General President and his fellow officers with the most reprehensible, derogatory and illegal conduct and then when full publicity had been attained in the lawsuit, to dismiss it with prejudice showing the utter baselessness of the allegations.

I charge that Brother Roy Underwood, in assisting in the preparation of this lawsuit, in verifying and filing it in the court and thereby causing it to become public property with notices in the newspapers, has published literature of a defamatory nature against our General Officers contrary to the provisions of Article XVI, Section 1, of the Constitution of the International Union of Operating Engineers and that this is a matter which concerns every single member of our organization and is so serious as to deserve the attention of the General Executive Board of the International Union of Operating Engineers to whom this subject is respectfully directed.

Fraternally yours,

WILLIAM E. CARTER,
Hearing Officer.

August 30, 1952

Exhibit 2

ANSWER TO CHARGES

To The General Executive Board,
International Union Operating Engineers,
1003 "K" Street, N.W.,
Washington, D. C.

In The Matter Of Charges Preferred By William E. Carter Against Roy J. Underwood

Roy J. Underwood, President and Business Manager of Local Union 542, 542A, 542B and 542C, of the International Union of Operating Engineers hereby answers the charges preferred by William E. Carter, dated August 30, 1952 and served on September 5, 1952.

1. It is denied that I defied the Constitutional authority of the General President at any time.

2. It is denied that I have circumvented the Constitution by filing a law suit.

3. It is denied that I have used the law suit as a means to charge the General President and his fellow Officers with any responsible, derogatory and illegal conduct, and it is denied that by dismissing the law suit I admitted that the allegations contained in the Complaint were baseless.

4. It is denied that I have published literature of a defamatory nature against our General Officers contrary to the provisions of Article XVI, Section 1 of the Constitution of the International Union of Operating Engineers.

The foregoing charges arose out of a controversy between the Local Union and certain Employer Associations as a result of which certain employers succeeded in creating internal strife between the International and Local Unions which led to the institution of these charges. The facts giving rise to the controversy and to these charges may briefly be stated as follows:

There are approximately 625 contractors within the jurisdiction of Local Union 542 which covers the Eastern

half of Pennsylvania and the State of Delaware. Of this number 98 contractors, who employ operating engineers, belong to three contractor associations, hereinafter referred to as the Employer Associations. The remaining 580 contractors are hereinafter referred to as Independent Contractors. The employer associations prior to May 1, 1952, employed about 350 members of the Local which represented slightly less than 10% of the membership of the Local, which totals approximately 3800 members.

Between May 1, 1951 and May 1, 1952, the Independent Contractors operated under an agreement with the Local Union voluntarily entered into between them. The Employer Associations, however, operated under an alleged agreement which was never signed by the Union representatives or ratified by the Union membership, nor approved by the General President as required by the Constitution, but which was preliminarily held to be valid at a preliminary hearing in Court. On the basis of that agreement the Employer Associations operated at a rate of pay of 25¢ per hour less than that which all the independent contractors were paying in the same area, even though the higher rate had been approved as prevailing by the Davis-Bacon Section of the United States Department of Labor. Prior to the termination of the alleged contract with the Employer Associations and the contracts with the independent contractors, notice of termination was submitted by the Local Union to all contractors, with the request that negotiations be undertaken to effect a new agreement. Prior to the expiration date the Local Union reached an agreement with a Negotiating Committee for the independent contractors and a new contract was signed, covering the period from May 1, 1952 to May 1, 1953. The Employer Associations, however, refused to bargain with the Local Union representatives in good faith and were unable to reach any agreement. As a consequence, the membership of the Local Union voted to strike against those contractors who were members of the three Employer Associations

until such time as an agreement could be effected with the said associations.

As a direct result of the agreement entered into with the independent contractors, there was very little unemployment resulting from the strike against the Employer Associations. Most of the 350 men who had been employed by the Employer Associations were given employment by independent contractors. Approximately 100 men remained out of work intentionally for the purpose of picketing in order to make the strike against the Employer Associations effective. These 100 men were paid strike benefits from a fund created voluntarily by the membership of the Local. As a result of the action of the Local an effective strike was conducted with no hardship to the members of the Local, financial or otherwise.

The Employer Associations, through their chief representative, Mr. Harry R. Halloran, attempted repeatedly to create friction within the ranks of the Local membership by sending out many highly improper letters and by personally soliciting individual members; a so-called rebel faction, consisting of a handful of disgruntled members, was created through the direct efforts of the Employer representatives and several attempts were made to start a "back-to-work" movement and to create disunity within the Local. All of these manipulations by the Employers were overwhelmingly and decisively defeated by the Local membership and the strike was completely unaffected by these manipulations.

The strike received the sanction of the Building Trades Council of Philadelphia which Council adopted a resolution expressly acknowledging support and cooperation, approving and endorsing the strike. The various unions affiliated with the Building Trades Council carried out their pledge of support and refused to cross the picket lines at the various projects of the Employer Associations Contractors.

The International Union fully endorsed and approved the strike from the very outset and expressly approved the

various demands of the Local which were the issues of the strike. The very demands, such as the Pension Plan and Safety Code, were matters which had been approved and strongly recommended by the General President at the Convention immediately preceding this controversy. The Third International Vice-President assigned to this area, Mr. John J. McDonald, throughout the controversy, kept a careful watch on the proceedings and gave his full support and endorsement on behalf of the International in this struggle by the Local Union for improvement of their wages and working conditions.

After the strike continued for about one month and the efforts of the Employer representative, Halloran, were rebuffed by the Local, a substantial number of contractors broke from the Employer Associations and came into the Union office and signed the contract demanded by the Local which contained the Pension Plan, the Safety Code, Improved Wages, and a number of other benefits. Other contractors communicated with the officials of the Local and stated that they intended to sign up very shortly but that they were temporarily holding off because of Halloran's assurance that he was in contact with the International Union, and through the International Union he hoped to destroy the Local's leadership. Counsel for the Employer Associations admitted that he had employed Mr. J. Howard McGrath, the former Attorney General, to communicate with General President Maloney. The said McGrath conferred with General President Maloney who thereafter communicated with the Business Manager of the Local, Roy J. Underwood, and the General President advised that he intended to send an observer into the negotiations because it had been represented to him that the representatives of the Local were refusing to negotiate with the Employer Associations. Brother Underwood pointed out to the General President that the International Vice-President, McDonald, was in the area and was constantly in touch with the situation and he had already reported that

the Local representatives were exerting every reasonable effort in order to effect an agreement. The General President, however, saw fit to send as an observer into the negotiations Brother William Carter, the Business Manager of Local No. 825 from New Jersey.

Brother Carter first came into the proceeding by communicating with Halloran, the Employer's representatives, and had certain discussions with him without advising the representatives of the Local and entered into certain understandings with Halloran without the knowledge or consent of the Local's representatives. Thereafter meetings were arranged between Halloran and the Local's representatives. At these meetings Brother Carter did not function as an observer, but on the contrary, sought to compel the Local representatives to accept a contract which was acceptable to the Employers and which was less than the basic agreement which had been previously entered into with the independent contractors. Brother Carter rejected all of the Local's demands, such as the Pension Plan, Safety Code, Improved Wages, and numerous other demands contained in a rider which had previously been submitted to the Employer Associations. This suggested contract by Brother Carter was intended to bind the Local Union for a period of three years. A copy of the proposal by Brother Carter as acknowledged by him and agreed to by the Employers, and in the handwriting of Brother Carter's Secretary, is hereto attached and marked "Exhibit 2-A". When Brother Carter was reminded by the representatives of the Local that his function was simply that of an observer, he became highly incensed and broke up the meeting by stating that he was himself going to write and execute the contract for the Local. The Local representatives disputed the right and authority of Brother Carter to write a contract for the Local.

Thereafter President of the Local, Underwood, was summoned to confer with the General President and in compliance with the General President's order, he traveled

to Chicago and conferred at some length with the General President. Thereafter the General President summoned Brother Carter and Mr. Halloran to the conference, which lasted for several days. At these conferences Local representative Underwood was urged most strongly by General President Maloney to accept the proposal of the Employers' representative Halloran, but Brother Underwood would not abandon the demands of the Local which had been approved by the Executive Board and by the membership at large at a regular meeting. Brother Underwood offered to submit certain of the demands which were in excess of the basic contract, to arbitration, but the General President insisted that the Local's demands be reduced so that the Employer Associations would have a contract giving the Local membership less than that which was contained in the basic agreement with the independent contractors. He insisted that any difference existing between his suggested proposal and the basic contract should be submitted to arbitration. The General President refused to permit the issues of the Pension Plan, the Safety Code, the Improved Wages, and other demands contained in the rider to be included within the proposed arbitration. Brother Underwood explained the reasons for the demands of the Local to the General President; as to the claim for improved wages, the Local simply wanted parity with the rates of pay prevailing in New Jersey since the cost of living was higher in Pennsylvania than in New Jersey, which is the adjacent area; as to the demands for a pension plan and a safety code, the Local was actually carrying out the recommendations of the General President which he had advocated for many years, and as recently as the last Convention recently held by the International Union in April of 1952. Accordingly, Brother Underwood would not accede to the instructions of the General President that he now waive and abandon these demands of the Local. The General President then terminated the discussions and advised Halloran and Brother Underwood that the Local's

right to negotiate a contract would not be interfered with.

Upon returning to Philadelphia a further meeting was arranged between Halloran and the Local's representatives at which the Employers refused to recede from the proposal advanced by them in Chicago and refused to discuss such issues as the Pension Plan, the Safety Code, and Improved Wages. When the Union representatives insisted on discussing these issues, Mr. Halloran terminated the meeting and thereupon reestablished contact between himself and General President Maloney. As a result of that conference between Halloran and the General President, the General President telephoned Brother Underwood and instructed him to present the Employers' proposal to the membership of the Local at a special meeting and he further directed Brother Underwood to state to the membership that he, the General President, urged the adoption of the Employers' proposal most strongly. In order to dispel any doubt regarding the proposal which was advocated by the General President, the Local's representatives dispatched a telegram to him requesting that he wire back the specific terms which he directed to be submitted to the membership. In reply, the General President transmitted a telegram urging the membership to accept the proposal of the employers. A copy of that telegram is hereto attached and marked "Exhibit 2-B".

The proposal of the General President was submitted to the Executive Committee of the Local Union, which declined to accept the proposal, and it was thereafter submitted to the membership at a special meeting, held late in the evening of August 5, 1952, and attended by approximately 3000 to 3500 members of the Local Union. The General President was represented at this meeting by the International Vice-President of this area, Brother John McDonald, and by his special representative from Washington, Brother Hunter P. Wharton. The International representatives were accorded every respect by the Local representatives and by the membership at large. They were

afforded full opportunity to address the Local membership and to express the views and proposal of the General President. In addressing the membership, the International representative commended Brother Underwood for the efficient and proper manner in which he had conducted the affairs of the Union. He stated, however, that the proposal of the General President should be accepted by the membership. Brother Underwood also addressed the membership and while he pointed out his own views and those of the Local Executive Board, he urged the membership to give careful and serious consideration to the General President's proposal. When the matter was put to a vote, the membership voted unanimously not to accept the recommendation of the General President, but to continue to negotiate on the basis of the original demands.

In the course of all of these proceedings, Employer representative Halloran was actively engaged in coercing and otherwise preventing the vast majority of the contractors from entering into a contract with the Local Union. It was also apparent that Brother Halloran was not in fact keeping the contractors of the Employer Associations fully informed of the developments. Repeated calls were made by numerous contractors, large and small, to the Local representatives and it was clear that these contractors were not only willing, but anxious to enter into the agreement proposed by the Local, but were precluded from doing so only by virtue of the measures of Mr. Halloran and a very small group of followers. Recognizing this anomalous situation existing within the Employer Associations, the International Vice-President, Brother John J. McDonald, undertook, on behalf of the International Union, to bring the representatives of the Local Union together with all of the contractors who were disposed to enter into an agreement with the Local. He therefore directed letters on behalf of the International Union, to all the officers of the three Associations, pointing out that Brother Underwood had the endorsement of the International Union be-

hind him; that he had a splendid record in conducting the affairs of the Union and that he had been acting in the utmost good faith in the conduct of negotiations with the Employers. He then suggested that all of these officers meet with Brother Underwood at which time he would be pleased to sit in and attempt to work out a solution to the entire controversy. A copy of the letter of General Vice-President McDonald is hereto attached and marked "Exhibit 2-C".

Pursuant to the letter of General Vice-President McDonald, a number of calls from contractors who indicated a willingness to reach a contract were received, and tentative appointments were made for a meeting to be held the following Monday, August 11, 1952. Meanwhile, the Employers' representative, Mr. Halloran, upon learning of the letter which had been sent by General Vice-President McDonald, immediately communicated with General President Maloney on August 11, 1952, and on the date when a number of contractors had expressed their willingness to discuss the matter, General President Maloney dispatched an order to all officers and members of the Local ordering them to return to work immediately and to accept the proposal of the Employers which he had previously urged the membership to adopt. A copy of the said order of the General President is hereto attached, marked "Exhibit 2-D". The said order of the General President threw the entire situation into confusion and nullified the efforts of General Vice-President McDonald which had promised to bring an immediate solution to the entire controversy.

The order of the General President of August 11, 1952, created a problem for the Local Union which placed them on the horns of a dilemma. If they returned to work, the strike, which had been successfully carried on for three and a half months, would be completely broken and any expectation of being able to obtain a reasonable contract would have been destroyed. On the other hand, although feeling that the order of the General President was illegal

and exceeded his authority, no redress could have been obtained through the Union channels in time to prevent a complete breakdown of the Local's position in the strike. Accordingly, upon the recommendation of counsel for the Local, a law suit was instituted in the United States District Court seeking to test the validity of the order of the General President, this being the only redress available to the Local Union under the circumstances.

Shortly before the General President issued his order on August 11, 1952, the Building Trades Council, for some unexplained reason, rescinded its endorsement of the strike of the Local and attempted to force the Local to accept the contract of the Employers by threatening to call their men off any job where an operating engineer was employed. When the Local representatives refused to accept the Employers' proposal, the Building Trades Council then withdrew their membership from all jobs where operating engineers were already employed. This action constituted a direct violation of the Labor Management Relations Act, being a secondary boycott, and it was illegal and violated the rights of the operating engineers. Accordingly, in the action which was brought in the Federal Court to test the validity of the General President's order, the Local also asked for relief in the form of an injunction against the Building Trades Council to restrain them from discriminating against the Operating Engineers. The matter came on for hearing on August 14, 1952, in the United States District Court for the Eastern District of Pennsylvania and shortly after the proceedings were opened the Trial Judge stated that the matter should be settled, and to that end he recessed the proceedings and the parties proceeded to his chambers where settlement negotiations were undertaken under his direction. After two days of vigorous collective bargaining between the Employers and the representatives of the Local, an agreement was entered into, subject to the approval of the membership. That agreement provided that all the issues, except one, should be

submitted to arbitration. The Local's representatives were successful in having the Pension Plan, Safety Code, Improved Wages and other demands, included within the proposed arbitration. The only issue which was kept out of the arbitration was the one relating to retroactive pay. When this issue came up, counsel for the International Union intervened in the proceedings, and threatened to invoke supervision over the Local. As a direct result of that threat the issue of retroactive pay was withdrawn. The International Union withdrew its threat to invoke supervision only after the issue of retroactive pay was withdrawn. The proposed settlement was submitted to the membership of the Local Union at a special meeting called on Monday, August 13, 1952. The proposed settlement was strongly recommended by Brother Underwood, the President of the Local, and, after full discussion by the members, it was adopted by the membership. Pursuant to that agreement, the strike was immediately terminated and the members of the Local Union returned to work the next morning, August 19, 1952. The representatives of the General President were present at the meeting when the membership voted to accept the proposal and were fully aware of the return to work the following morning. During the morning when the men had returned to work, on August 19, 1952, at 10:00 a.m., counsel for the Local Union made a report to the Court of the action of the membership taken the preceding evening in approving the proposed stipulation, and advised the Court further that the men had returned to work, pursuant to the proposed agreement. The litigations were then and there settled in the usual manner by marking them dismissed as required by the rules of Court.

Later on during the same day, August 19, 1952, at about 3:00 p.m., the General President's Order invoking supervision, "Exhibit 2-E" was served on the Local Union. The reason assigned in the said Order invoking supervision is that the General President considered it necessary in order to put an end to the strike and terminate unemployment. It is undisputed that at the same time the said

Order was signed and served, the strike had already been terminated and the men had already returned to work. If the reasoning of the General President can be construed as sufficient to invoke supervision the Order should nevertheless not have been invoked since the strike was terminated the day before the Order was signed and served.

Pursuant to the Order of supervision, Brother Hunter P. Wharton, designed as the supervisor, has assumed control over the affairs of the Local Union and has taken charge of the arbitration proceeding. The said supervisor has precluded the representatives of the Local from exercising any control over the conduct of the arbitration. It is averred that the International President is not in position to conduct or participate in any way in the said arbitration, upon the ground that he has taken the unalterable position that the Local Union is not entitled to a Pension Plan, Safety Code, Improved Wages, or any other demands outlined in the rider, all of which have now been included within this arbitration by virtue of the insistence of the Local's representatives. It is obvious that the General President cannot now successfully maintain a position different from the one which he had previously advocated. The assumption of control over the arbitration proceeding is in violation of the understanding existing at the time the agreement to arbitrate was entered into and it is without authority or consent of the Local membership.

The supervisor sought consent of the Local Executive Board on Monday, September 8, 1952, but the said Board declined to give such consent. The assumption of control over the arbitration violates the Local members' rights to bargain collectively in their own behalf as is guaranteed by the International Constitution and by the laws of the United States.

From the foregoing circumstances, it is evident that I have not defied the Constitutional authority of the General President in any manner whatsoever, nor have I attempted to circumvent the Constitution or use the law

suit as a means to cast any reflection upon the General President or any of his fellow Officers. On the contrary, I have at all times conducted myself with due regard for the Constitutional authority of the General President. The institution of the law suit was intended only to preserve the rights of the local membership, under the advice of counsel. The law suit was not designed to defame the character of the General President or of any other Officer of the International Union. The filing of the law suit cannot be construed as publication of literature of a defamatory nature against the general Officers contrary to the provisions of our International Constitution and it was never so intended.

The General President and the General Vice-President assigned to this area have many times expressed complete satisfaction and confidence in the manner in which I have conducted the affairs of the Local Union. I have always fully protected and advanced the interest of the International as well as the Local Union. The General President will verify that I have gone beyond the call of duty in attempting to bring with the ranks of the International Union, the Marine Engineers Beneficial Association, whose membership the International Union has sought for many years. In other respects I have demonstrated my complete loyalty and devotion to the International Union as well as to the Local Union of which I am President and Business Manager. The fact that I have disagreed with the General President, as has been heretofore outlined, is not to be taken as a symbol of disrespect or insubordination. The right to disagree with the International representatives is a right which is guaranteed to every member as an American citizen and it is inherent in our American democratic form of Government. There is nothing in the International Constitution which conflicts with that basic right guaranteed by the Constitution of the United States.

It is accordingly respectfully submitted that the charges which have been preferred by Brother William E. Carter are entirely unfounded and should be dismissed.
Dated: September 13, 1952

ROY J. UNDERWOOD,
President and Business Manager
Local 542, 542A, 542B, 542C
Of the International Union of
Operating Engineers

Exhibit 2-A

SUGGESTIONS BY MR. CARTER AND AGREED TO BY EMPLOYERS

1. Add addenda to Employers' last agreement which would provide:
2. Increase for Oilers and Operators to be 39¢ for highway work.
3. Increase for Oilers and Operators to be 10¢ for heavy building work.
4. Re-establish our Welfare Fund and then agree to merger of 2 welfare funds.
5. Master mechanic will be employed when 7 or more revolving rigs are used by Employer on 1 job.
6. A limitation on number of compressors to be operated by one man (this limitation to be a compromise between our desire for no limitation and that of union as could be worked out by Carter and Halloran).
7. 3 year contract to be re-opened only for wages at end of 18 months—escalator clause for this to be based on change of cost of living index—if change is more than 10% then change in rates would be the amount by which cost of living index change exceeds 10%.
8. Continue tide clause as in our last agreement (6 A.M. to 6 P.M.).
9. Both sides to withdraw all law suits (this includes union demand for retroactive pay)—or allow law suits to stand to be settled in court.

Exhibit 2-B

WESTERN UNION TELEGRAM

W.BMA014 Long PD-BM Washington DC 5 1140A—
Roy J Underwood, Bus Mgr, Local Unio 542—
121 North Broad St Phila—

Your telegram received this morning August 5. You are well acquainted with the proposal of the contractors and the only differences of opinion are the questions in the agreement you now have with the Independent Contractors which are as follows:

Last part of paragraph 2 of article 3, construction definitions, on page 4. The wording of handling steel and stone in article IV, wages and conditions applicable to building construction; the question of interpretation of section 16 and page 10 and the addition of the word pile-driver in wage scale in article V on page 11; also section 14 on page 16 which is a question of interpretation and the question of handling steel and stone on page 17 under wage scale; also, section 14 and page 22 needs to be interpreted.

The contractor has agreed to consolidate the funds of the welfare funds without a lawsuit and without going to court and costing the Local union any money to settle this dispute.

These differences in my opinion are not sufficient to cause a protracted strike of over three months.

I am in receipt of a telegram from the building and construction trades Council of Philadelphia informing me that there are 6500 of their members who are out on strike on account of the action of our Local in Philadelphia. I hope Local #542 acts favorable on this question and immediately so we can let the other 6500 men that are walking the streets have an opportunity to make a living for themselves and their families. Please notify me immediately the results of your meeting.

WM E MALONEY *Gen President*

Exhibit 2-C

INTERNATIONAL UNION OF OPERATING ENGINEERS

Affiliated with the American Federation of Labor

JOHN J. McDONALD
Third General Vice President

Broadwood Hotel
Philadelphia, Pa.
August 7, 1952

Dear Sir:

This letter is intended to bring about a termination of the work stoppage presently existing in the construction industry insofar as it concerns the operating engineers in this area.

My investigation into this matter reveals that the Contractors who are members of your Association are completely confused and uninformed about what has been taking place in the way of settlement negotiations.

The information received by your members from your negotiating committee is to the effect that it is impossible to do business with Mr. Underwood and that he will not honor an agreement once it is arrived at.

I wish to state to you, without reservation, that this information is absolutely false and it apparently was submitted to your members in bad faith for the purpose of preventing any contract from being entered into between the parties.

As the representative of the International Union in this area, I have followed this matter closely and carefully. From my own personal observation, I can state that Mr. Underwood has given unsparingly of his time and has exerted every effort to settle this dispute in the utmost good faith. What I have learned from the Contractors, who are members of your Association, indicates that they have not been given the correct information either about

Mr. Underwood's actions, or about the suggestions which he has made in attempting to settle this dispute.

Because of the extraordinary importance of this matter to you and to the individual contractors who are members of your Association, I strongly recommend that your Board of Directors arrange to meet at the earliest possible moment with Mr. Underwood and his committee and you can then determine for yourselves whether the information you have received is correct.

It may be of interest to you to know that Mr. Underwood has negotiated and consummated collective bargaining agreements with seven Associations throughout the jurisdiction of our Local Union without any work stoppage and in addition, has negotiated contracts with the Warner Company, Liberty Corporation, and the Negotiating Committee for Independent Contractors representing 160 Contractors in the Philadelphia area. The total number of Contractors bound by the contracts referred to well exceeds 500. The wage increases in the areas outside Philadelphia have now been approved by the Construction Industry Stabilization Commission and all these contractors are proceeding with their construction without any interruption in work.

It may be that your present representatives have failed to inform you of the true state of affairs, and if this is so it is extremely important that you take immediate steps to ascertain the true situation. It seems to me your own welfare demands that you find out for yourselves what has been taking place and the best way to find out is to meet face to face with Mr. Underwood and his committee and determine what can actually be accomplished in the way of a settlement. I should think that we are all adult enough to put aside petty grievances and fears and meet this situation squarely.

Should you desire it I would be pleased to sit in at such a conference between you Board of Directors and Mr. Underwood and his Committee and lend my good offices

in attempting to work out a solution to this controversy.

If you feel that I can be of any service in this matter, please feel free to call me at the Broadwood Hotel, Philadelphia, Telephone No. Rittenhouse 6-6800.

Yours very truly,

JOHN J. MCDONALD,
3rd Vice President

Exhibit 2-D

INTERNATIONAL UNION OF OPERATING ENGINEERS
Affiliated with the American Federation of Labor
Telephone National 9265
Carpenters' Bldg., 1003 K St., N. W.
Washington 1, D. C.

Office of the General President

August 11, 1952

Officers and Members of Local Union #542 and Branches.

Attention MR. ROY J. UNDERWOOD
GENERAL PRESIDENT'S INSTRUCTION
TERMINATING STRIKE

Dear Sirs and Brothers:

The public interest together with the best interests of the rank and file of Local Union #542 and its Branches and of the International Union of which it is an important part recognizes that prompt action be taken to return its membership, which has been out of work since May 1, 1952, back to their jobs.

As a result of the conference between the parties at my Chicago office and from other information before me it is evident that the few differences between Local Union #542 and the Employers Contractors Associations have now been reduced to a point where facilities for agreement

are available and can be used, making it unnecessary and inadvisable to further continue this strike.

Now for the first time in the history of this organization we have been officially notified that the 6500 members of the Building and Construction Trades Council of Philadelphia, who have been thrown out of work since May 1 as a result of your strike, have taken drastic action, refusing to work on any job with any operating engineer. These men together with the members of your Local Union have been walking the streets for over 13 weeks and now the majority of them want this strike ended and to return to work. There is no justification for the continuance of this strike when the means of settlement upon the narrow issues discussed are available.

ORDER

As General President of the International Union of Operating Engineers I hereby order all members of Local Union #542 and its Branches to promptly return to their work forthwith.

I further direct and instruct Roy Underwood as President and Business Manager of Local Union #542 to immediately end the current strike and to promptly issue notice to the membership thereof within twenty-four hours from the receipt of this letter, and I further request that he immediately advise my office on receipt of this Order of his intention to cooperate.

I further direct and instruct the officers, committees and members of Local Union #542 and its Branches to comply with these Orders and to cooperate in carrying out the intent and purpose thereof.

I further direct and instruct Local Union #542 to promptly enter into and pursue negotiations with the Employer Contractor Associations, per the substance of my telegram to Roy Underwood of August 5, 1952 and upon the basis of the understanding informally reached at the Chicago conference between the parties.

You will take notice of the foregoing Order issued

by me as General President under authority conferred by the Constitution of the International Union of Operating Engineers, and govern yourselves accordingly.

Fraternally yours,

INTERNATIONAL UNION OF OPERATING ENGINEERS

By WM. E. MALONEY, *General President*

WEM:MEB

Exhibit 2-E

INTERNATIONAL UNION OF OPERATING ENGINEERS

Affiliated with the American Federation of Labor

Telephone National 9.65

Carpenters' Bldg., 1003 K St., N. W.

Washington 1, D. C.

Office of the General President

To the Officers and Members of Local Union #542 and Branches

Attention: ROY J. UNDERWOOD, President and Business Manager and to All Those Whom This Letter May Concern.

Greetings:

"General President's Order invoking
International Supervision over
Local Union #542 and Branches."

From reports of conditions existing in the territory of Local Union #542 coming to my attention it is apparent that emergency action by your General President is necessary and in my opinion the best interests of the membership of Local Union #542 and of the International Union, as well as the Public Interest, require that such emergency action be immediately asserted and that International

Supervision over the affairs of your Local Union be temporarily invoked. I find that an emergency exists and that this relief is necessary.

An irregular strike has been declared and maintained by the officers of Local Union #542 which has thrown its members out of work since May 1, 1952. The continuance of this strike has long been disapproved by the Building Trades Council of Philadelphia whose 6500 members have been walking the streets unable to work because of your action. We now witness action taken by the Building Trades condemning the continuance of your strike and ordering their membership of 6500 to refuse to work upon any job upon which any operating engineer is employed.

Strenuous efforts have been exerted by me to assist you in settling your differences with the Employer Contractor Association. At my Chicago conference between the parties the issues were simplified and the means agreed upon to settle them but on your return to Philadelphia you took a different attitude. I wired you on August 5, 1952 advice on settlement which has been ignored. On August 11, 1952 I ordered the members back to work and instructed you to end the strike and issue notice thereof to the membership within twenty-four hours and to advise me of your cooperation. These instructions delivered to you at 3:00 P.M. August 11, 1952 have not been followed. The means for the peaceful negotiation and settlement of your differences with the Employer Contractor Associations have been available to you but ignored. Your determination to keep members walking the streets is unjustified. I believe that a majority of the membership desire that the strike end —that they be permitted to return to work and they desire that Local Union #542 negotiate and settle its differences without personal animosities at the conference table.

The Operating Engineers of Philadelphia have lost and are continuing to lose public good will and prestige through the conduct of this strike, resulting in tremendous inconvenience to the public and halting for many months

the work upon millions and millions of dollars of Public Works over a wide area. The Governor of Pennsylvania has personally appealed for resumption of work on public projects, calling attention to the many strikes instituted by you in the past few years on public projects. Dissension within the Local Union appears to be rampant—violence is reported to occur at meetings—members seek to withdraw and secure a separate charter and supervision is begged for by many. Thse are but a few of the conditions which appear to show that the administration of Local Union =542 has broken down and is at fault, and convince me that the interests of the membership should not be jeopardized by further continuance of these conditions.

ORDER INVOKING INTERNATIONAL SUPERVISION

In accordance with the power invested in me as General President by the Constitution of the International Union of Operating Engineers I hereby place Local Union =542, its branches, officers, members, business and affairs under International Supervision effective forthwith pending a hearing before me as hereinafter designated.

I further appoint Brother Hunter Wharton as my deputy and International Supervisor over Local Union =542 and its Branches and I direct him to administer the business and affairs thereof, and to conserve its assets to the best of his knowledge and ability and as a trust solely for the benefit of the membership to the end that the rights of members will be protected; their property safeguarded; their affairs administered with fairness and in a business-like manner, and that the Constitution, laws, customs, Ritual and Authority be recognized and enforced by the membership. He shall appoint, subject to my approval, such temporary assistants and officers pro tem, as may be deemed necessary for the conduct of business of the Local.

The Present officers of Local Union #542 are instructed not to interfere in the administration of the business of Local Union #542 by Supervisor Wharton and are

further instructed to turn over to the Local Union any property belonging to it which they are withholding.

I direct that all Banks and Depositories of Local Union #542, its Branches, officers and committees, give full recognition to my Deputy, Hunter Wharton, as International Supervisor in the premises and to honor the official character of his appointment.

I direct International Supervisor Wharton to keep full records, to cause regular audits to be made by Certified Public Accountants, to make true accounting of his trust and be strictly accountable for his stewardship thereof.

During this emergency under International Supervision the earned good standing of the members shall in no way be adversely affected, nor shall the rights of members in good standing to work be interfered with, and the Charter of Local Union #542 shall remain in force under the protection of Constitutional Supervision.

NOTICE OF HEARING

This order invoking International Supervision over Local Union #542 and Branches and appointing Hunter Wharton as International Supervisor in charge thereof shall continue temporarily subject to a hearing at 1003 K Street, N.W., Washington, D. C., at 1:00 P. M. August 26, 1952, at which time and place any and all interested parties may appear and show cause why these orders should not be continued until further order or modified.

Notice of such hearing is hereby given to all interested parties. Please take notice thereof and govern yourselves accordingly. Issued under authority of the Constitution of the International Union of Operating Engineers at 11:00 A.M. this 19th day of August, 1952.

INTERNATIONAL UNION OF OPERATING ENGINEERS

By WM. E. MALONEY, *General President*

Exhibit 3

CASE NO. 1 Continued

In the Matter of Charges against Roy J. Underwood

This matter came on for hearing before the General Executive Board in the regular order of business before the Board upon the written charges filed by Brother W. E. Carter against Brother Roy Underwood, the written answer and defense of Brother Underwood, and a half-day session was devoted to the matter on which witnesses were heard and exhibits introduced and at the conclusion of which both sides rested after announcing that no more evidence was desired by either to be introduced; whereupon the General Executive Board took the matter under advisement. At all times during the hearing on this matter, the General Executive Board was presided over by Vice President Joseph J. Delaney and at all times during both the hearing of the case and the deliberations of the General Executive Board which followed, General President Maloney refrained from voting on the matter or the giving of any recommendations thereon to the Board.

The following opinion and decision is reached as the unanimous action of all members of the Board participating therein.

The Board finds that the charges were valid charges constituting violations of the Constitution and Ritual, that due notice had been given of the hearing, that copy of the charges had been furnished Brother Underwood and same were adequately informative, that Brother Underwood accepted the right of the General Executive Board to try said matter and that the General Executive Board had jurisdiction over the same by virtue of the Constitution of the International Union of Operating Engineers with particular reference to Article XVI, Section 1, Article XVI, Section 3, Article XVII, Section 3, and other pertinent sections, and the Ritual, and that at the close

of the case Brother Underwood stated he had had a fair, full and complete hearing.

The Carter charges as filed charge Underwood with three specific violations of the Constitution, viz., (1) refusal to obey orders of General President, (2) filing lawsuit when no complaint had been filed prior thereto with any department of the International, (3) publishing literature of a defamatory nature by allegations against General President and Officers contained in lawsuit. To these charges Underwood filed his answer, categorically denying each charge and setting up 19 pages of matter foreign to the issue. We have searched in vain for something therein constituting a defense to the charges as filed but nothing appears.

The facts in this case show clearly that on August 11, 1952, Underwood was representing Local #542 in capacity of President and Business Manager.

That on August 11, 1952, General President Maloney had requested Underwood to issue notice returning men who were on strike back to work and to advise the General President within 24 hours of his intention to cooperate; that Underwood refused so to do and refused to notify the General President as requested and within the twenty-four hour period filed a bill in equity in Federal Court charging the General President with conspiracy and certain criminally disgraceful activities, alleged to be harmful to the membership of Local #542.

Upon review of all the evidence the Board finds the Carter charges are true and that Underwood is guilty as charged of violations contrary to the provisions of the Constitution and Ritual, in such cases made and provided. The Board finds that the General President had power to issue the request of August 11th upon Underwood by virtue of his constitutional powers referred to in Article VI, Section 3, beginning "He shall have power to direct and supervise all Local Unions, Local Officers and any other subdivision of the International Union and members."

The Board further finds that Underwood owed a duty to obey the General President's request of August 11, 1952, by virtue of his obligation in the Ritual and by the mandate of the Constitution referred to in ArticleXXIII, Subdivision 3, Section a, beginning: "Members of Local Unions shall conform to and abide by the Constitution, Laws, Rules, Obligation and Ritual and the decisions, rulings, orders and directions of any authority of the International Union empowered by this Constitution to make them," and that Underwood violated his duty as a member in this regard.

The Board further finds that Underwood was bound by his obligation as a member by the provisions of the Ritual and by the Constitution to refrain from filing any suit at law or equity until and unless he had first followed and exhausted all procedures provided within the Constitution for the hearing of complaints as required by Article XVII, Section 3 of the Constitution. That in derogation of this duty he made no effort to file a complaint or plea within the organization but filed his action in court in disregard thereof.

The Board further finds that the various charges of illegal conspiracy on the part of General President and third persons to violate the United States laws to the damage of the membership and also other statements, as alleged in Underwood's equity suit filed August 12, were false and untrue and that the same constitutes publishing literature of a defamatory nature against an officer in violation of the Constitution, Article XVI, Section 1, for which Underwood is adjudged guilty and must be held responsible.

In reaching these findings the Board takes into consideration the fact that it is common knowledge within the organization that Brother Underwood had had much experience in the litigation of union matters in the courts of Pennsylvania, also that he was directly responsible for the preparation of the "Resistance Resolution" adopted by his local executive board shortly before August 11, 1952, authorizing ways and means for legal resistance to any

action in the event the International Union should attempt to inject itself in the local strike situation. The Board further takes into consideration the fact that Brother Underwood was a member of the Law Committee of the 24th General Convention of the International Union of Operating Engineers at Seattle, Washington, in April of 1952 and was actively interested in and better advised on constitutional procedure within the organization than most members and that while on said Law Committee he co-sponsored and recommended to the 24th General Convention that Article XVII, Section 3 of the Constitution be amended to read as follows:

> "All Court Actions Superseded
>
> "No suit or other action at law or equity shall be brought in any court by any member, officer or subdivision of the International Union of Operating Engineers, until and unless all rights, remedies and provisions for hearing, trial and appeal within the organization shall have been properly followed and exhausted by the member officer or subdivision complaining.
>
> Any member violating this provision, shall, in addition to the penalties prescribed in the Constitution and ritual, be automatically fined the full amount of the costs incurred in the defense of any such action by the Union, together with such costs additional as the court may fix or assess against said member.

The said amendment was adopted and was in full force and effect at all times described herein.

Since the General Secretary-Treasurer has reported to the General Executive Board that the International Union has incurred necessary legal expense in retaining counsel for the defense of the suit filed by Underwood in the sum of $3,500.00 it follows that said amount is duly chargeable to Underwood and should be paid by him.

Any description of conditions existing in Philadelphia is a minor matter and secondary to the main issues on the charges before the Board but in view of the fact that Underwood had devoted much space in his written defense and in the testimony of witnesses to existing conditions we believe a brief statement by the Board is advisable.

The following clearly appears from the evidence: that when the General President's Order of August 11 was issued Underwood's local had been on strike against the three contractor associations for 104 days, during which time negotiations for a new labor agreement were getting nowhere. A contract with independent contractors had been entered into. The strike held up all construction work in the area, affecting not only the operating engineers but throwing 6500 members of the allied Building Construction Trades out of work. Pressure of many kinds from many sources was daily mounting, making final intervention by the International Union in the local picture not only advisable but necessary if the local deadlock, influenced as it was by personalities and reprisals, was to be broken. There is no doubt Underwood greatly resented the success of the contractor associations in securing through court order a two-year extension of a previous contract in spite of Underwood's insistence that it could be extended for only one year and that this resentment apparently affected the negotiations quite seriously.

There is no doubt that an emergency existed justifying the General President in ordering Underwood and the contractor associations' representative into Chicago and holding them in conference for several days during which the General President was able to get more concessions for the men than Underwood had been able to secure in the long term of the existing strike. These concessions secured were (1) an overall wage increase of 40¢ per hour; (2) a consolidation by consent of the two existing welfare plans; (3) a point by point adoption of all conditions of the existing independent contractors' agreement with the exception

of 4 or 5 minor points to be negotiated out between the parties on their return to Philadelphia and which, in view of what was at stake, were in the opinion of the Board exceedingly minor matters. Thereafter the parties returned to Philadelphia, negotiations were resumed and instead of confining the discussions to the matters agreed upon at Chicago Underwood insisted on enlarging his demands and adding a safety code to the negotiations, resulting in a disagreement and adjournment.

In the meantime the strike continued, pressure mounted, the Governor of Pennsylvania proceeded to take matters up with General President Maloney. Thousands of dollars of Local #542's funds were being spent by Underwood to hire pickets from the Maritime Union and the Building and Constructions Trades Council of Philadelphia whose 6500 workmen were forced out of work adopted an order whereby none of its members could work on any job on which an operating engineer was employed, presenting a situation unique and unheard of in labor history. There are other minor details in the picture as it existed but are inconsequential. We have presented the main features as clearly appear from the evidence before us and find the facts thereof to be as stated.

There is nothing in the foregoing review of conditions or the conditions Underwood describes which justify in any manner the violation by Underwood of his duties as contained in the charges before us or excuse his actions therein.

In his defense Underwood say that the purpose of his suit against the General President and others was "to test the validity of the order of the General President." Ignoring for the moment the specific restrictions in the Constitution preventing him from taking such action and analyzing his motive, a question of good faith and credence immediately arises. How can any merit be attached to such an excuse when we witness a court action charging criminal conduct on the part of the General President filed by Underwood for the ostensible purpose of testing the power

of an executive and then observe Underwood dismissing his case with prejudice before the claimed purpose was achieved and before any opportunity was offered for the executive to prove his innocence of the conduct charged against him? The facts show and the Board finds that this suit was never designed for the purpose claimed by Underwood but on the contrary was wholly manufactured by him and constituted a vicious and reprehensible attempt by him to discredit and defame his superior officer who was thereby wrongfully and publicly accused of criminally disgraceful conduct in a court proceeding and in the public press.

DECISION

In the Matter of the Charges Brought by Brother Wm. E. Carter against Brother Roy J. Underwood

The General Executive Board finds that the defendant, Roy J. Underwood was properly charged and tried in conformity to the Constitution, that he was duly notified and that he entered appearance to the jurisdiction of the Board by filing his answer to the charges and by appearing at the hearing with his witnesses and announcing his readiness to proceed.

The General Executive Board further finds that Roy J. Underwood is guilty of the violations referred to in the charge in that (2) he defied the constitutional authority of the General President contrary to the duty imposed upon him by the Constitution and Ritual (b) he filed a lawsuit against the General President and the International Union contrary to the provisions of the Constitution, Article XVII, Section 3 and the Ritual (c) he published literature of a defamatory nature against the General President contrary to the provisions of Article XVI, Section 1 of the Constitution by alleging criminally disgraceful and discreditable acts and accusations of conspiracy to do illegal things.

alleged to have been performed by General President Maloney as set forth in an equity suit filed by him in the U. S. Federal Court in Philadelphia, Pa. on or about August 12, 1952, all of which the General Executive Board finds the facts to be.

Coming now to fixing the penalty, it is hereby ordered that the defendant, Roy J. Underwood be and he is hereby fined $3,500.00 and removed from office forthwith and suspended from membership in the International Union of Operating Engineers and all branches thereof for a period of six years from the date hereof, provided further however and it is so ordered that upon his promptly and regularly discharging his financial obligations to the organization he be placed on probation for a period of six years, during which period of probation he shall be barred from attending any and all meetings, local and otherwise of the International Union of Operating Engineers and further be barred from holding office or participating directly or indirectly in any of the nominations, elections, campaigns, gatherings or other internal activities of the organization, local and otherwise, and that during said probation period, conditioned upon the strict observance of the terms thereof as stated herein, the penalty of suspension be and the same is hereby conditionally stayed.

It is further ordered as a condition of said decision and probation that in the event there is any violation by Roy J. Underwood of the spirit and intent of the foregoing probation order that then upon a finding of the fact thereof by the General Executive Board the Board shall thereupon order the decision and sentence into execution forthwith.

/s/ CHAS. B. GRAMLING,
General Secretary-Treasurer

So ordered tnis 24th day of September 1952.

AMENDED COMPLAINT

No. 14,547

HOMER DAWSON, GERARD LEONE, JAMES RUSSELL, ROBERT WALSH, COLOMBO ACCHIONE, EDMOND FARMER, MICHAEL CONCORDIA, NORMAN GALE, STANLEY KOSIOREK, GERALD GILROY, JOSEPH MARTIN and CLARENCE SWEENEY, *in their own behalf and on behalf of all members of Local 542 and its branches 542-A, 542-B, and 542-C of the International Union of Operating Engineers*

v.

WILLIAM E. MALONEY and HUNTER P. WHARTON, *individually, and as representatives of and on behalf of the International Union of Operating Engineers*

Plaintiffs above-named bring this action in their own behalf and in behalf of all members of Local 542 and its branches 542-A, 542-B, and 542-C, who number in excess of 3800 men, against the defendants, above-named, and allege as follows:

1. Plaintiffs, Homer Dawson, Edmond Farmer, and Stanley Kosiorek are citizens and residents of the State of Delaware; plaintiffs Gerard Leone, James Russell, Robert Walsh, Colombo Acchione, Michael Concordia, Norman Gale, Gerald Gilroy, Joseph Martin and Clarence Sweeney are citizens and residents of the State of Pennsylvania. All of said plaintiffs are now, and, at all times material, have been members in good standing of Local 542 of the International Union of Operating Engineers.

2. Local 542 and its branches Local 542-A, 542-B and 542-C, hereinafter referred to as Local 542, is a labor union whose members operate all types of mechanical and hoisting equipment such as cranes, bulldozers, pile drives, graders, compressors, pumps and other similar equipment, in the building and construction trades industry, in interstate commerce.

3. On July 11, 1935, Local 542 became affiliated with the International Union of Operating Engineers, with the right to local autonomy, and as a distinct entity with its own separate identity. The said Local was given exclusive jurisdiction within the eastern half of Pennsylvania and the State of Delaware.

4. The International Union of Operating Engineers, hereinafter referred to as the International, is an unincorporated labor union affiliated with the American Federation of Labor, national in scope, with its principal place of business in Washington, D. C.

5. Defendant, William E. Maloney, is a citizen and resident of the State of Illinois. Said defendant is the General President of the International Union of Operating Engineers, having been appointed to said office in 1940.

6. Hunter P. Wharton is a citizen of Washington, D. C., and is an official of the International Union of Operating Engineers in the capacity of Assistant to the General President.

7. The said William E. Maloney and Hunter P. Wharton, and each of them, occupy a status as will insure the adequate representation of the defendant International Union of Operating Engineers in these proceedings.

8. From the time defendant Maloney assumed office in 1940, he took personal control of all the assets of Local 542 and, personally or through his agents, managed and conducted the business and affairs of the said Local, in violation of the Local's rights to autonomy under the charter granted by the International. Because of defendant Maloney's mismanagement of the property and affairs of Local 542, a bill in equity was filed in 1947 in the Court of Common Pleas No. 2, Philadelphia County, December Term 1946, No. 3187, as a direct consequence of which the so-called supervision by defendant Maloney was terminated by court order and an election was held under the direction of a Court-appointed Master which resulted in the election of Roy J. Underwood as President and Business Manager of the Local.

9. Under the leadership of President Underwood, the business and affairs of Local 542 were conducted in a highly satisfactory and successful manner, in the best interests of the Union and its membership and in full accord with the law.

10. Shortly prior to May 1, 1952, Local 542, in the course of its regular business, effected a new agreement with the majority of employers, to replace the existing contract, which was scheduled to expire on the latter date. However, no agreement could be effected with a small minority of employers, as a consequence of which a strike resulted against that minority group, commencing on May 1, 1952.

11. The said strike was authorized and directed by a vote of the membership of Local 542, and it was conducted under the leadership of the President and Business Manager and the Executive Board of Local 542.

12. The said strike was carried on with the full knowledge and consent of the International, and it was officially assisted by the International through its General Vice President, John J. McDonald.

13. After the strike had been successfully carried on for a number of weeks and various attempts by the minority group of employers to break the strike had failed, certain representatives of the employers made contact with defendant William E. Maloney and improperly influenced him to use all of his authority and the power of his office to break the strike of Local 542 and to remove Underwood from office.

14. Pursuant to an understanding with the employer representatives, defendant Maloney brought pressure to bear upon President Underwood to terminate the strike without the consent of, and without the vote of the Local membership, and to abandon the demands for which the strike was being carried on.

15. President Underwood declined to call off the strike or to abandon the demands of the Local without a vote of

the Local membership. Defendant Maloney then ordered that a meeting of the Local be called and that the membership be advised of his, Maloney's, instructions.

16. In compliance with the direction of defendant Maloney, a meeting of the membership was held on August 5, 1952, and the members were then informed of defendant Maloney's demands. The membership voted to maintain their demands and to continue the strike.

17. Following the meeting of the membership aforesaid, General Vice-President McDonald, acting in his capacity as an International representative, attempted to arrange for a conference between the employers and the Local representative for the purpose of discussing the demands of the Local and working out a satisfactory settlement. A true and correct copy of McDonald's communication to the employers is hereto attached and marked "Exhibit 1-C".

18. In response to the said communication from McDonald, a meeting was arranged with certain of the employers, whereupon defendant Maloney, pursuant to a conspiracy with other employer representatives, caused said meeting to be cancelled and he issued a written order to break the strike and compel the membership to abandon their demands. A true and correct copy of the said order is hereto attached and marked "Exhibit 1-D".

19. Because compliance with the order of defendant Maloney would break the strike and destroy the Local's bargaining position, the Executive Board of the Local resolved to take immediate legal action to test the validity of defendant Maloney's order. Accordingly, the Board directed President Underwood to authorize counsel for the Local to institute immediate legal action to restrain Maloney from enforcement of his order and to test its validity.

20. Pursuant to the resolution of the Executive Board of the Local, a complaint was filed in the United States District Court for the Eastern District of Pennsylvania

on August 12, 1952, entitled Civil Action No. 14,071, seeking a declaratory judgment and a stay of proceedings in the meanwhile. The case came on for hearing before the Honorable Allan K. Grim on August 14, 1952, upon a motion for a preliminary injunction. At the suggestion of the Court, the proceedings were recessed and the parties adjourned to the Court's chambers in order to explore the possibilities of a settlement. As a consequence of the discussions in chambers, a tentative settlement was reached, subject to approval of the membership, whereby the demands of the Local were to be submitted to arbitration and the men to return to work in the meanwhile. The said settlement proposal was agreed to by defendant Maloney, and on August 18, 1952, the Local's membership, at a special meeting, voted to accept the proposal and to return to work the following morning.

21. The next day, August 19, 1952, at 10:00 a.m., counsel for Local 542 reported to the Court, with all parties present, that the Local's membership had approved the agreement and had already returned to work. Immediately thereafter, at about 11:00 a.m. the same morning, defendant Maloney issued a new order "invoking supervision" and he took immediate exclusive control over all the assets and affairs of the Local and suspended President Underwood, without any hearing, from performing any of the functions of his office as President and Business Manager. A copy of the said order is hereto attached and marked "Exhibit 1-E". An appeal was taken by the Local from the said order to the General Executive Board but the said Board has failed to hold any hearing and has advised the Local's representatives that they will not be permitted the right of counsel when such a hearing is held in the future. A true and correct copy of the appeal filed with the General Executive Board from the order invoking supervision is hereto attached and marked "Exhibit 1".

22. The said order of defendant Maloney invoking supervision was intended to, and did in fact, deprive the

Local of the right to make its own contracts with the employers; and specifically it was designed to, and did in fact, remove the arbitration proceeding from the hands of the Local's officials to the control of defendant Maloney and his representatives. Said defendant Maloney thereafter withdrew, or in effect conceded to the employers all of the important demands previously presented by the Local and for which the strike had been carried on. As a direct consequence of defendant Maloney's actions, the membership not only lost all of the demands which they had made in excess of the contract then prevailing in the industry, but in addition they lost many valuable rights already contained in the said contract.

23. The aforesaid actions and orders of defendant Maloney were illegal, improper and in violation of the Constitution and Ritual of the International Union and of the Constitution and laws of the United States. The said actions and orders violated, inter alia, the following provisions of the International Constitution: Article I, Sec. 3, which provides that each Local Union shall constitute a distinct entity with its own separate identity; Article XXIII, subd. 1, Sec. (d), which provides that the Executive Board of the Local shall be the policy-making tribunal subject only to the approval of the Local Union; Article XXIII, subd. 11 (e), which provides that contracts for the Local Union shall be made only by the representatives of the Local Union and are subject to the approval and ratification of the Local Union; Article XXIII, subd. 11 (c), which gives the Local Union the right to call and conduct a strike. The said actions and order were further illegal and constituted usurpation of power on the part of defendant Maloney in that there is no authority to support such orders and actions in the Constitution under the circumstances; the said actions and orders of defendant Maloney violated the Federal and State Constitutions and laws in depriving the membership of the Local of their fundamental property rights, the right to contract freely and the right to strike; said actions and orders of defend-

ant Maloney constituted a breach of trust and a betrayal of the International Union and of its affiliated Local Union.

24. Following his order invoking supervision, defendant Maloney caused charges to be preferred against President Underwood alleging misconduct because of the filing of the lawsuit aforementioned. A hearing was held before the General Executive Board of the International Union on September 17, 1952, in New York, where President Underwood was denied the right to counsel although general counsel for the International Union appeared as an advocate against him; the proceedings were not reported; there was no examination or cross-examination of any witnesses; no proper evidence was introduced to support the charges and no evidence was submitted to dispute the truth of the allegations contained in the complaint filed in Court by the Local Union. The General Executive Board did not render free and independent consideration and judgment, but it was at all times dominated, controlled and improperly coerced and influenced by defendant Maloney; there was no due process of law accorded to President Underwood and the said proceedings did not constitute a hearing within the meaning of that term. A unanimous decision was allegedly rendered by the General Executive Board removing President Underwood from office, suspending him from membership and all activities in the Union for a period of six years, and fining him the sum of $3,500.00. The opinion accompanying the decision is not based upon any facts or evidence adduced at the hearing and the said decision is contrary to law.

25. After removing President Underwood from the leadership and membership of the Local, defendant Maloney installed his personal deputy, defendant Hunter P. Wharton, and thereafter proceeded to revert to the same type of mismanagement as he had exercised over the Local during the period from 1940 to 1948. He has suspended all meetings of the membership and prohibited freedom of speech and assembly. He has blocked off all avenues of

information through which the membership might become informed and has embarked on a campaign of coercion and intimidation of the members of the Local, which is intended to prevent and eliminate all resistance and opposition to his management of the Local, its property and its membership. He has taken personal possession of all funds and all other assets and property of the Local and has failed and refused to make any accounting to the membership; he has assumed exclusive control over disbursements of funds and other assets without regard to the knowledge, consent or approval of the membership. Substantial sums of money and property have been diverted to unknown persons and sources, and the treasury is being rapidly depleted and the assets dissipated. The contractors are permitted to operate in violation of the existing agreements, and particularly, inter alia, to pay lower rates than required, to be deprived of working conditions required under the contracts, to operate equipment without the required personnel, and to otherwise reduce job opportunities, wage rates, safety provisions and working conditions of the members. Unemployment among the members is mounting rapidly because of the failure to properly police the jobs and enforce the contracts; unauthorized collections of moneys are being taken from members and are not accounted for; certain of the employers are permitted access to the confidential files of the Union in order to discriminate against members of the Local and other employers. Freedom of speech and of assembly among the membership of the Local are being suppressed under threat of disciplinary action and violence; the death benefit fund, consisting of a sum of approximately $120,000.00 has been taken over and improperly converted or appropriated by defendant Maloney and his representatives; the welfare fund, in an amount of approximately $1,000,000.00, and the welfare plan have been seriously impaired and the interests and rights of the membership in the said funds and plan have been substantially reduced, impaired, and in some instances completely destroyed, as a result of defendant Maloney's actions and his

management of the Local, chaotic conditions are being created which are now and will hereafter cause irreparable damage to the members of Local 542.

26. Plaintiffs aver that defendant Maloney by his actions from 1940 to 1947, and during the current period from August 19, 1952, to the present, has demonstrated a course of conduct showing that he is presently attempting to use the Local for his own personal interests; that he has in the past and will in the future impair and defeat the Local membership in the pursuit of their constitutional rights to liberty and freedom and their rights to work, to strike, to conduct their own affairs and to manage their own finances, and many other constitutional rights. As a result of defendant Maloney's actions, the Local Union has fallen into disrepute, to the great loss and embarrassment of the membership of the Local and of all decent persons associated with organized labor.

WHEREFORE, Plaintiffs pray your Honorable Court for relief as follows:

(a) by enjoining and restraining the defendants and their representatives from exercising any supervision or control whatever over the property, business, affairs and members of Local 542;

(b) by restraining the defendants and their representatives from interfering with the internal management of Local 542;

(c) by enjoining the defendants and their agents and representatives from engaging in any conspiracy or combination relative to the business and affairs and management of Local 542 and its members;

(d) by adjudging and declaring the actions and orders of defendant Maloney to be illegal and void, and enjoining the defendants from interfering with Local 542 and its representatives in effecting collective bargaining agreements with employers within the jurisdiction of Local 542;

(e) by declaring illegal and void all actions of all of

the defendants and their representatives pursuant to the order invoking supervision;

(f) by declaring null and void the convictions against President Underwood and by restoring him to his position as President and Business Manager of the Local Union, and as a member in good standing of the said Union;

(g) by enjoining and restraining the defendants and their agents and representatives from taking any reprisals against President Underwood or any other member of Local 542 because of any participation in the lawsuit previously filed in the United States District Court for the Eastern District of Pennsylvania, entitled Civil Action No. 14,071, or in this lawsuit, or in any other matter related to or arising out of the dispute between the International Union and defendant Maloney and his representatives and the members of the Local 542;

(h) by ordering that the defendants make a complete accounting of all funds and assets taken over and received by them and to transfer all such funds and assets to Local 542 under the control of the officers designated by the said Local;

(i) by ordering and directing that the defendants and their representatives turn over to the plaintiffs all books, records and other property possessed or kept by them in connection with the management, control and operation of Local 542;

(j) by rendering a declaratory judgment declaring the actions and the orders issued by defendant Maloney to be in violation of the Constitution and By-laws of the International;

(k) by rendering a declaratory judgment holding those provisions of the Constitution of the International Union which may be construed to support the actions and orders of defendant Maloney and the General Executive Board to be invalid and void, as against the public policy of the United States and in conflict with the fundamental

rights of the Local Members as American citizens, and as being in conflict with the Constitution and laws of the United States and of the Commonwealth of Pennsylvania,

(l) by granting such other and further relief as justice and equity may require.

FREEDMAN, LANDY AND LORRY
By ABRAHAM E. FREEDMAN

Exhibit 1

APPEAL FROM THE ORDER OF GENERAL PRESIDENT INVOKING INTERNATIONAL SUPERVISION OVER LOCAL UNION 542 AND ITS BRANCHES

Roy J. Underwood, President and Business Manager of Local Union 542, 542A, 542B and 542C, of the International Union of Operating Engineers, in accordance with the provisions of the International Constitution, hereby appeals to the General Executive Board, on behalf of the said Local Union and its officers, from the Order of the General President, dated August 19, 1952, invoking International supervision over the said Local and its branches, and in support of the said appeal avers, as follows:

The General President's Order dated August 19, 1952 invoking International supervision over Local Union 542 and its branches, is predicated upon the assumption that a strike existed at the time of its issuance and the underlying reason for the order of supervision was to cut off the strike and compel the membership of the Local Union to return to work under conditions existing prior to the strike. In answer to these contentions, it is averred, on behalf of the Local Union, that at the time the order of supervision was invoked, the General President already had knowledge that the strike had been terminated as the result of a settlement between the Employers and the Local Union on the basis of which the members of the Local Union had already

returned to work. There was, therefore, no emergency as would appear from the Order invoking supervision and the reason assigned for invoking the supervision no longer existed, if in fact justification for the order had ever existed upon such ground. The facts giving rise to the entire controversy may briefly be stated as follows:

There are approximately 625 contractors within the jurisdiction of Local Union 542 which covers the Eastern half of Pennsylvania and the State of Delaware. Of this number 98 contractors, who employ operating engineers, belong to three contractor associations, hereinafter referred to as the Employer Associations. The remaining 530 contractors are hereinafter referred to as Independent Contractors. The employer associations prior to May 1, 1952, employed about 350 members of the Local which represented slightly less than 10% of the membership of the Local, which totals approximately 3800 members.

Between May 1, 1951 and May 1, 1952, the Independent Contractors operated under an agreement with the Local Union voluntarily entered into between them. The Employer Associations, however, operated under an alleged agreement which was never signed by the Union representatives or ratified by the Union membership, nor approved by the General President as required by the Constitution, but which was preliminarily held to be valid at a preliminary hearing in Court. On the basis of that agreement the Employer Associations operated at a rate of pay of 25¢ per hour less than that which all the independent contractors were paying in the same area, even though the higher rate had been approved as prevailing by the Davis-Bacon Section of the United States Department of Labor. Prior to the termination of the alleged contract with the Employer Associations and the contracts with the independent contractors, notice of termination was submitted by the Local Union to all contractors, with the request that negotiations be undertaken to effect a new agreement. Prior to the expiration date the Local Union

reached an agreement with a Negotiating Committee for the independent contractors and a new contract was signed, covering the period from May 1, 1952 to May 1, 1953. The Employer Associations, however, refused to bargain with the Local Union representatives in good faith and were unable to reach any agreement. As a consequence, the membership of the Local Union voted to strike against those contractors who were members of the three Employer Associations until such time as an agreement could be effected with the said associations.

As a direct result of the agreement entered into with the independent contractors, there was very little unemployment resulting from the strike against the Employer Associations. Most of the 350 men who had been employed by the Employer Associations were given employment by independent contractors. Approximately 100 men remained out of work intentionally for the purpose of picketing in order to make the strike against the Employer Associations effective. These 100 men were paid strike benefits from a fund created voluntarily by the membership of the Local. As a result of the action of the Local an effective strike was conducted with no hardship to the members of the Local, financial or otherwise.

The Employer Associations, through their chief representative, Mr. Harry R. Halloran, attempted repeatedly to create friction within the ranks of the Local membership by sending out many highly improper letters and by personally soliciting individual members; a so-called rebel faction, consisting of a handful of disgruntled members, was created through the direct efforts of the Employer representative and several attempts were made to start a "back-to-work" movement and to create disunity within the Local. All of these manipulations by the Employers were overwhelmingly and decisively defeated by the Local membership and the strike was completely unaffected by these manipulations.

The strike received the sanction of the Building Trades Council of Philadelphia which Council adopted a resolution

expressly acknowledging support and cooperation, approving and endorsing the strike. The various unions affiliated with the Building Trades Council carried out their pledge of support and refused to cross the picket lines at the various projects of the Employer Associations Contractors.

The International Union fully endorsed and approved the strike from the very outset and expressly approved the various demands of the Local which were the issues of the strike. The very demands, such as the Pension Plan and Safety Code, were matters which had been approved and strongly recommended by the General President at the Convention immediately preceding this controversy. The Third International Vice-President assigned to this area, Mr. John J. McDonald, throughout the controversy, kept a careful watch on the proceedings and gave his full support and endorsement on behalf of the International in this struggle by the Local Union for improvement of their wages and working conditions.

After the strike continued for about one month and the efforts of the Employer representative, Halloran, were rebuffed by the Local, a substantial number of contractors broke from the Employer Associations and came into the Union office and signed the contract demanded by the Local which contained the Pension Plan, the Safety Code, Improved Wages, and a number of other benefits. Other contractors communicated with the officials of the Local and stated that they intended to sign up very shortly but that they were temporarily holding off because of Halloran's assurance that he was in contact with the International Union, and through the International Union he hoped to destroy the Local's leadership. Counsel for the Employer Associations admitted that he had employed Mr. J. Howard McGrath, the former Attorney General, to communicate with General President Maloney. The said McGrath conferred with General President Maloney who thereafter communicated with the Business Manager of the Local, Roy J. Underwood, and the General President advised that he intended to send an observer into the negotiations be-

cause it had been represented to him that the representatives of the Local were refusing to negotiate with the Employer Associations. Brother Underwood pointed out to the General President that the International Vice-President, McDonald, was in the area and was constantly in touch with the situation and he had already reported that the Local representatives were exerting every reasonable effort in order to effect an agreement. The General President, however, saw fit to send as an observer into the negotiations Brother William Carter, the Business Manager of Local No. 825 from New Jersey.

Brother Carter first came into the proceeding by communicating with Halloran, the Employer's representative, and had certain discussions with him without advising the representatives of the Local and entered into certain understandings with Halloran without the knowledge or consent of the Local's representatives. Thereafter meetings were arranged between Halloran and the Local's representatives. At these meetings Brother Carter did not function as an observer, but on the contrary, sought to compel the Local representatives to accept a contract which was acceptable to the Employers and which was less than the basic agreement which had been previously entered into with the independent contractors. Brother Carter rejected all of the Local's demands, such as the Pension Plan, Safety Code, Improved Wages, and numerous other demands contained in a rider which had previously been submitted to the Employer Associations. This suggested contract by Brother Carter was intended to bind the Local Union for a period of three years. A photostatic copy of the proposal by Brother Carter as acknowledged by him and agreed to by the Employers, and in the handwriting of Brother Carter's Secretary, is hereto attached and marked Exhibit "A". When Brother Carter was reminded by the representatives of the Local that his function was simply that of an observer, he became highly incensed and broke up with meeting by stating that he was himslf going to write and execute the contract for the Local. The Local representatives disputed the right and authority of Brother Carter to write a contract for the Local.

Thereafter President of the Local, Underwood, was summoned to confer with the General President and in compliance with the General President's order, he traveled to Chicago and conferred at some length with the General President. Thereafter the General President summoned Brother Carter and Mr. Halloran to the conference, which lasted for several days. At these conferences Local representative Underwood was urged most strongly by General President Maloney to accept the proposal of the Employers' representative Halloran, but Brother Underwood would not abandon the demands of the Local which had been approved by the Executive Board and by the membership at large at a regular meeting. Brother Underwood offered to submit certain of the demands which were in excess of the basic contract, to arbitration, but the General President insisted that the Local's demands be reduced so that the Employer Associations would have a contract giving the Local membership less than that which was contained in the basic agreement with the independent contractors. He insisted that any difference existing between his suggested proposal and the basic contract should be submitted to arbitration. The General President refused to permit the issues of the Pension Plan, the Safety Code, the Improved Wages, and other demands contained in the rider to be included within the proposed arbitration. Brother Underwood explained the reasons for the demands of the Local to the General President; as to the claims for improved wages, the Local simply wanted parity with the rates of pay prevailing in New Jersey since the cost of living was higher in Pennsylvania than in New Jersey, which is the adjacent area; as to the demands for a pension plan and a safety code, the Local was actually carrying out the recommendations of the General President which he had advocated for many years, and as recently as the last Convention recently held by the International Union in April of 1952. Accordingly, Brother Underwood would not accede to the instructions of the General President that he now waive and abandon these demands of the Local. The Gen-

eral President then terminated the discussions and advised Halloran and Brother Underwood to continue negotiations themselves. The General President assured Brother Underwood that the Local's right to negotiate a contract would not be interfered with.

Upon returning to Philadelphia a further meeting was arranged between Halloran and the Local's representatives at which the Employers refused to recede from the proposal advanced by them in Chicago and refused to discuss such issues as the Pension Plan, the Safety Code, and Improved Wages. When the Union representatives insisted on discussing these issues, Mr. Halloran terminated the meeting and thereupon reestablished contact between himself and General President Maloney. As a result of that conference between Halloran and the General President, the General President telephoned Brother Underwood and instructed him to present the Employers' proposal to the membership of the Local at a special meeting and he further directed Brother Underwood to state to the membership that he, the General President, urged the adoption of the Employers' proposal most strongly. In order to dispel any doubt regarding the proposal which was advocated by the General President, the Local's representative dispatched a telegram to him requesting that he wire back the specific terms which he directed to be submitted to the membership. In reply, the General President transmitted a telegram urging the membership to accept the proposal of the employers. A copy of that telegram is hereto attached and marked Exhibit "B".

The proposal of the General President was submitted to the Executive Committee of the Local Union, which declined to accept the proposal, and it was thereafter submitted to the membership at a special meeting, held late in the evening of August 5, 1952, and attended by approximately 3000 to 3500 members of the Local Union. The General President was represented at this meeting by the International Vice-President of this area, Brother John J. McDonald, and by his special representative from Wash-

ington, Brother Hunter P. Wharton. The International representatives were accorded every respect by the Local represenatives and by the membership at large. They were afforded full opportunity to address the Local membership and to express the views and proposals of the General President. In addressing the membership, the International representative commended Brother Underwood for the efficient and proper manner in which he had conducted the affairs of the Union. He stated, however, that the proposal of the General President should be accepted by the membership. Brother Underwood also addressed the membership and while he pointed out his own views and those of the Local Executive Board, he urged the membership to give careful and serious consideration to the General President's proposal. When the matter was put to a vote, the membership voted unanimously not to accept the recommendation of the General President, but to continue to negotiate on this basis of the original demands.

In the course of all of these proceedings, Employer representative Halloran was actively engaged in coercing and otherwise preventing the vast majority of the contractors from entering into a contract with the Local Union. It was also apparent that Brother Halloran was not in fact keping the contractors of the Employer Associations fully informed of the developments. Repeated calls were made by numerous contractors, large and small, to the Local representatives and it was clear that these contractors were not only willing, but anxious to enter into the agreement proposed by the Local, but were precluded from doing so only by virtue of the measures of Mr. Halloran and a very small group of followers. Recognizing this anomalous situation existing within the Employer Associations, the International Vice-President, Brother John J. McDonald, undertook, on behalf of the International Union, to bring the representatives of the Local Union together with all of the contractors who were disposed to enter into an agreement with the Local. He therefore directed letters on behalf of the International Union, to all of the officers

of the three Associations, pointing out that Brother Underwood had the endorsement of the International Union behind him; that he had a splended record in conducting the affairs of the Union and that he had been acting in the utmost good faith in the conduct of negotiations with the Employers. He then suggested that all of these officers meet with Brother Underwood at which time he would be pleased to sit in and attempt to work out a solution to the entire controversy. A copy of the letter of General Vice-President McDonald is hereto attached and marked Exhibit "C".

Pursuant to the letter of General Vice-President McDonald, a number of calls from contractors who indicated a willingness to reach a contract were received, and tentative appointments were made for a meeting to be held the following Monday, August 11, 1952. Meanwhile, the Employers' representative, Mr. Halloran, upon learning of the letter which had been sent by General Vice-President McDonald, immediately communicated with General President Maloney on August 11, 1952, and on the date when a number of contractors had expressed their willingness to discuss the matter, General President Maloney dispatched an order to all officers and members of the Local ordering them to return to work immediately and to accept the proposal of the Employers which he had previously urged the membership to adopt. A photostatic copy of the said order of the General President is hereto attached, marked Exhibit "D". The said order of the General President threw the entire situation into confusion and nullified the efforts of General Vice-President McDonald which had promised to bring an immediate solution to the entire controversy.

The order of the General President of August 11, 1952, created a problem for the Local Union which placed them on the horns of a dilemma. If they returned to work, the strike, which had been successfully carried on for three and a half months, would be completely broken and any expectation of being able to obtain a reasonable contract would have been destroyed. On the other hand, although

feeling that the order of the General President was illegal and exceeded his authority, no redress could have been obtained through the Union channels in time to prevent a complete breakdown of the Local's position in the strike. Accordingly, upon the recommendation of counsel for the Local, a law suit was instituted in the United States District Court seeking to test the validity of the order of the General President, this being the only redress available to the Local Union under the circumstances.

Shortly before the General President issued his order on August 11, 1952, the Building Trades Council, for some unexplained reason, rescinded its endorsement of the strike of the Local and attempted to force the Local to accept the contract of the Employers by threatening to call their men off any job where an operating engineer was employed. When the local representatives refused to accept the Employers' proposal, the Building Trades Council then withdrew their membership from all jobs where operating engineers were already employed. This action constituted a direct violation of the Labor Management Relations Act, being a secondary boycott, and it was illegal and violated the rights of the operating engineers. Accordingly, in the action which was brought in the Federal Court to test the validity of the General President's order, the Local also asked for relief in the form of an injunction against the Building Trades Council to restrain them from discriminating against the Operating Engineers. The matter came on for hearing on August 14, 1952 in the United States District Court for the Eastern District of Pennsylvania and shortly after the proceedings were opened the Trial Judge stated that the matter should be settled, and to that end he recessed the proceedings and the parties proceeded to his chambers where settlement negotiations were undertaken under his direction. After two days of vigorous collective bargaining between the Employers and the representatives of the Local, an agreement was entered into, subject to the approval of the membership. That agreement provided that all the is-

sues, except one, should be submitted to arbitration. The Local's representatives were successful in having the Pension Plan, Safety Code, Improved Wages and other demands, included within the proposed arbitration. The only issue which was kept out of the arbitration was the one relating to retroactive pay. When this issue came up, counsel for the International Union intervened in the proceedings, and threatened to invoke supervision over the Local. As a direct result of that threat the issue of retroactive pay was withdrawn. The International Union withdrew its threat to invoke supervision only after the issue of retroactive pay was withdrawn. The proposed settlement was submitted to the membership of the Local Union at a special meeting called on Monday, August 18, 1952. The proposed settlement was strongly recommended by Brother Underwood, the President of the Local, and, after full discussion by the members, it was adopted by the membership. Pursuant to that agreement, the strike was immediately terminated and the members of the Local Union returned to work the next morning, August 19, 1952. The representatives of the General President were present at the meeting when the membership voted to accept the proposal and were fully aware of the return to work the following morning. During the morning when the men had returned to work, on August 19, 1952, at 10:00 a.m., counsel for the Local Union made a report to the Court of the action of the membership taken the preceding evening in approving the proposed stipulation, and advised the Court further that the men had returned to work, pursuant to the proposed agreement. The litigations were then and there settled in the usual manner by marking them dismissed as required by the rules of Court.

Later on during the same day, August 19, 1952, at about 3:00 p.m. o'clock, the General President's Order invoking supervision Exhibit "E" was served on the Local Union. The reason assigned in the said Order invoking supervision is that the General President considered it nec-

essary in order to put an end to the strike and terminate unemployment. It is undisputed that at the same time the said Order was signed and served, the strike had already been terminated and the men had already returned to work. If the reasoning of the General President can be construed as sufficient to invoke supervision the Order should nevertheless not have been invoked since the strike was terminated the day before the Order was signed and served.

Pursuant to the Order of supervision, Brother Hunter P. Wharton, designed as the supervisor, had assumed control over the affairs of the Local Union and has taken charge of the arbitration proceedings. The said supervisor has precluded the representatives of the Local from exercising any control over the conduct of the arbitration. It is averred that the International President is not in position to conduct or participate in any way in the said arbitration, upon the ground that he has taken the unalterable position that the Local Union is not entitled to a Pension Plan, Safety Code, Improved Wages, or any other demands outlined in the rider, all of which have now been included within this arbitration by virtue of the insistence of the Local's representatives. It is obvious that the General President cannot now successfully maintain a position different from the one which he had previously advocated. The assumption of control over the arbitration proceeding is in violation of the understanding existing at the time the agreement to arbitrate was entered into and it is without authority or consent of the Local membership.

The supervisor sought consent of the Local Executive Board on Monday, September 8, 1952, but the said Board declined to give such consent. The assumption of control over the arbitration violates the Local members' rights to bargain collectively in their own behalf as is guaranteed by the International Constitution and by the laws of the United States.

There are no conditions which exist now or which have heretofore existed throughout the period of this controversy which justify the invoking of supervision by the

General President. The Local Union has been operated in a highly efficient and sound manner. The administration by the Local representatives has received the commendation of the General President as well as the General Vice-President assigned to this area, who have expressed complete satisfaction and confidence in the manner in which the affairs of the Local Union have been conducted. The meetings have been conducted in a democratic and fair manner and devoid of any violence, coercion, or other improper conduct. The membership and its representatives have conducted themselves in full accord with the provisions of the Constitution of the International Union. The fact that the Local representatives may have disagreed wih the International representatives is no symbol of disrespect or insubordination. The right to disagree with the International representatives is a right which is guaranteed to every member as an American citizen and it is inherent in our American democratic form of life. There is nothing in the International Constitution which conflicts with that basic right guaranteed by the Constitution of the United States.

It is therefore respectfully submitted, that the Order invoking supervision, which was obviously designed to terminate the strike, was incorrectly invoked, not only because the strike had been terminated, but also because it was in excess of the authority granted by the International Constitution under the circumstances. The Order of supervision should, therefore, be revoked.

s/ Roy J. Underwood
ROY J. UNDERWOOD

On behalf of Local 542, 542A, 542B, 542C of the International Union of Operating Engineers, and Its Officers and Members

Dated: September 13, 1952

Exhibit 1-A

[Exhibit 1-A is identical with Exhibit 2-A appearing at page 30a, and is not here reprinted.]

Exhibit 1-B

[Exhibit 1-B is identical with Exhibit 2-B appearing at page 31a, and is not here reprinted.]

Exhibit 1-C

[Exhibit 1-C is identical with Exhibit 2-C appearing at page 32a, and is not here reprinted.]

Exhibit 1-D

[Exhibit 1-D is identical with Exhibit 2-D appearing at page 34a, and is not here reprinted.]

Exhibit 1-E

[Exhibit 1-E is identical with Exhibit 2-E appearing at page 36a, and is not here reprinted.]

EXCERPTS FROM TRANSCRIPT OF TESTIMONY

Plaintiff's Evidence

AFTERNOON SESSION

[83] MR. O'BRIEN: If Your Honor please, Mr. Maloney is a bit hard of hearing and if Your Honor has no objection would it be all right if Mr. Maloney took a seat over here by the jury box, so he could hear the witnesses better?

THE COURT: Let him sit in the jury box if he wants to.

MR. O'BRIEN: Thank you, sir.

MR. FREEDMAN: Mr. Underwood, will you take the stand, please?

ROY J. UNDERWOOD, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN—

Q. How old are you, Mr. Underwood? A. Fifty-one.

Q. Married? A. Yes, sir.

Q. Children? A. Yes, sir.

Q. How many? [84] A. I have one child; one stepson and a natural son.

Q. What is your residence, Mr. Underwood? A. 2801 Garrett Road, Drexel Hill, Pennsylvania.

Q. You are the plaintiff in this case? A. Yes, sir.

Q. Mr. Underwood, you were president and business manager of Local 542 until September of 1952, when you were removed? A. Until supervision was imposed, I would say August 19.

Q. Of '52? A. 1952.

Q. Mr. Underwood, will you explain to the Court the

please? Give us first the International Union. A. Well, the International Union, of course, is composed of Local Unions throughout the United States and Canada. It is made up of Local Unions. These Local Unions in turn have various branches under the jurisdiction of the parent locals.

The International has seven vice-presidents, a general secretary-treasurer and general president, and of course the trustees and auditors.

[85] The General Executive Board of the International Union is made up of the general president, the general secretary-treasurer and the seven vice-presidents.

I don't know how much more—

Q. Well, that is good enough. Now in the Local Union; will you explain the structure of your Local Union here in Philadelphia, in the Philadelphia area? First tell us, please, what jurisdiction it covers. A. Its territorial jurisdiction covers the eastern half of Pennsylvania. Those are the thirty-four counties of Eastern Pennsylvania and the State of Delaware. It, of course, had elected officials under autonomy: The president, vice-president, recording secretary, treasurer and so forth.

Q. Will you keep your voice up, please? A. Yes, sir. It had an Executive Board under local autonomy of twenty members who, of course, made recommendations of policy in accordance with the constitution to the membership, and all acts, of course, were reviewable and subject to approval by the membership of the Local Union.

Q. Was that Executive Board created pursuant to the [86] International constitution? A. Yes, sir.

Q. And your office of business manager and president also? A. Yes, sir.

Q. How many branches did Local 542 have? A. There were three branches.

Q. Will you tell us what they were and what functions they served, please? A. Local 542-A was composed of the apprentice engineers, that is, the oilers and firemen within the Union.

Local 542-B consisted of those men employed on high-

way construction who operated bulldozers, rollers and other equipment used on highway construction, which had not been previously organized.

Local 542-C covered generally material yards and scrap yards, men employed in those yards.

* * * * * * *

Q. I think you mentioned that 542-B covered the bulldozers, [87] all the operators of mechanical equipment? A. Yes, sir.

Q. What is the distinction between those men and the men in the parent body? A. Those men work on highway work, and it was initially for the purpose, 542-B, of organizing those men employed in construction work which were not then within the Union. The Union initially, of course, covered only building work, and then it branched out to some heavy construction, but did not go into the highway field. But within our Union and under the constitution the members of Local 542-B and 542-A and 542-C are not permitted to vote for officials of the Local Union.

Q. Then why did you say they are not permitted to vote? A. The constitution forbids it.

Q. The International constitution? A. Yes, sir.

Q. Prior to the time you became an officer in Local 542 what was your occupation, Mr. Underwood? A. I was an operating engineer and master mechanic.

Q. Will you tell us when you started, please. A. Well, I started about thirty-three years ago, about 1924, I would say, operating construction equipment in Akron.

[88] Q. Tell us how you started, what equipment you worked on, and what your experience has been. A. Well, I started on a tractor. I went from there to firing steam machines up in the coal stripping, and then went on bulldozers, I went on Caterpillar machines, and from there to truck cranes, Caterpillar cranes, and rollers and so forth and so on. I mean, all of the construction equipment normally used on construction operations.

Q. Did you work in any particular locality or was it pretty much around the country? A. Well, its was pretty

much around the country. Of course, I have been working in the East for the past, oh, I would say fifteen, eighteen years exclusively. However, before I worked out on the West Coast on the Grand Coulee Dam, and in San Francisco for the Bay Bridge job, and a number of other jobs throughout the country. Prior to that I worked here in the East, too.

Q. Did you work for any particular companies or did you work generally for all companies who had available work? A. Generally for all companies.

Q. Can you tell us some of the major companies you worked for, please? [89] A. In the East, do you mean?

Q. Well, anywhere. A. Well, I worked for McCloskey and Company, John McShain, Drydock Associates, Merritt Chapman and Scott, Lombardi and Company and Buckley and Company, and—well, just about every contractor in the area at one time or another, I believe. These jobs are only two weeks at a time sometimes and you skip around a great deal.

Q. When did you join the Operating Engineers? A. In 1935.

Q. What was the number of the Local at that time? A. 506. I belonged to 506-B at the time.

Q. Was that subsequently changed? A. Yes. I believe that was changed in 1938. A new charter was issued for Local 542.

Q. Did you work pretty regularly prior to becoming an officer in Local 542? A. Fairly regularly, yes. During the period from 1935 to 1948, however, I experienced considerable unemployment, but I lived.

Q. Can you state why you experienced—let me ask you first was the Union operating under autonomy or was it under supervision? A. It was under International supervision, under the [90] supervision of—

Q. From when to when. A. Well, to my knowledge from 1935 up until the Court-supervised election in 1948, when it was removed.

Q. Now, can you tell us something about the conditions which existed in the Local during that period of supervision which you know of your knowledge?

MR. O'BRIEN: Objected to. That is objected to, Your Honor.

THE COURT: I will overrule the objection.

A. Well, the conditions weren't good, of course.

THE COURT: That isn't the question, Mr. Underwood. Let's not characterize things—

MR. FREEDMAN: Please be specific.

THE COURT: —by adjectives. Let's have facts. Conclusions I will draw. I will characterize situations. You just tell us what the situation was.

A. Well, I attended nearly all of the meetings from late 1937 up until 1948, and I know that no one was permitted to speak on the floor without being threatened, and I have seen quite a few beaten, and badly beaten, on the floor.

MR. O'BRIEN: That is objected to, sir, as not being responsive. I move it be stricken.

[91] THE COURT: Well, I am going to overrule it. I am going to let some of the background in, but I am not going to allow you to give me the history of the Union from the time he joined it down to the time of this suit. I want that sketched in very briefly. We have got to get down to this case.

MR. FREEDMAN: Your Honor, that was my intention, sir. I didn't intend to go into too much detail, but I did want to give the highlights.

THE COURT: All right, that I will permit you to do.

[92] By MR. FREEDMAN—

Q. There was one other thing I wanted to ask you about your prior qualifications, Mr. Underwood. Were you a master mechanic, too, during that period? A. Yes, sir, I was.

Q. Will you tell the Court what a master mechanic is? A. A master mechanic supervises the operating engineers on a project and supervises maintenance and repair of construction equipment.

Q. Now, can you tell us who the supervisor was during that period of supervision? A. Joseph Fay was the supervisor.

Q. You say you attended the meetings? A. Yes, sir.

Q. Tell us briefly what you observed as a regular matter in connection with those meetings, please. A. Well, efforts were made, of course, to determine where the money was going in the local union and to determine why members had to kick back to the supervisors.

MR. O'BRIEN: That is objected to as hearsay, if Your Honor please. I move that it be stricken.

THE COURT: I think your objection is [93] very well taken on the matter, Mr. O'Brien.

MR. FREEDMAN: Your Honor, these are all things which came up at the meetings which were discussed with the supervisor and therefore are not hearsay. These are things that actually occurred, what he heard himself, charges which were made on the floor, and the manner in which they were made.

THE COURT: That is not the manner of his testimony.

MR. FREEDMAN: Sir?

THE COURT: That is not the manner of his testimony. In the way he presented his answer, it may be stricken.

By MR. FREEDMAN—

Q. Mr. Underwood, will you state what you heard during the course of meetings so far as any charges regarding misconduct are concerned, first?

MR. O'BRIEN: Objected to, sir.

THE COURT: Overruled.

A. Yes, sir. In fact, I myself asked these questions of Mr. Fay and Mr. Carter and Mr. White at various times.

By MR. FREEDMAN—

Q. Who were Mr. Carter and Mr. White? [94] A. Mr. Carter was Mr. Fay's principal assistant who came in on many cases and acted instead of Mr. Fay and on his behalf. Mr. White was the assistant supervisior who remained in the area.

Q. Were they both officially in the area? A. Only Mr. White, to our knowledge.

Q. You mean he was the officially-designated assistant supervisor? A. Yes, he was.

Q. Did Mr. Carter have any official status at all? A. No, sir.

Q. With what union was he connected? A. Local 825 in Newark, New Jersey.

Q. Was Fay connected with that local? A. Yes, sir.

Q. I think you did state that Mr. Fay was the supervisor during this period that you said was under supervision? A. Yes, sir.

Q. Will you tell the Court, please, what you observed in the way of charges that were presented in these meetings and what disposition was made? A. Yes, sir. Well, the supervisor of the unior, Mr. [95] Fay, required each member of the union to kick back to them 5 per cent of his wages each week, and then after the opposition resentment became stronger at the meetings, they reduced it to 3 per cent, in addition to their dues, and a number of questions were asked about that.

I know that I have been threatened, and other members have been threatened. I have seen it happen on the floor. These men would walk up and down the side of the floor and threaten you if you insisted on asking questions. They would tell you to shut up and sit down.

Q. Was there any violence at those meetings? A. Yes, sir, there was violence.

Q. Did Mr. Maloney ever appear at those meetings? A. No, sir.

Q. Now, were there any other incidents regarding the conduct or supervision during that period, very briefly, Mr. Underwood? A. Well, we were denied elections, of course.

Q. Sir? A. We couldn't elect our own officials, of course, and we were denied any financial reports. We knew that thousands of men were on permit fees in the area.

Q. What do you mean by permit fees? [96] A. Well, men who were kept out of the union, denied permission to join the union, but instead were required to pay $2.50 each week they worked into the union, and no accounting was ever made, of course, of those permit fees to the membership.

Q. Were there any contracts written during that period that you know of? A. We used to receive a booklet occasionally showing the contract that was to have been in existence, but, of course, the members were never given the opportunity to approve the contracts.

Q. Who negotiated and signed the contracts; do you know? A. Well, some were negotiated apparently by Mr. White and by Mr. Carter.

MR. O'BRIEN: Objected to.

THE COURT: I will overrule the objection. He can explain how he knows it.

By MR. FREEDMAN—

Q. Would you be good enough to do that, please, Mr. Underwood? A. Yes, sir, the booklets that we received showing the agreement, working rules of the union, were signed by [97] Jasper White as supervisor—assistant supervisor. Other contracts I saw in the files of the local union were signed by Mr. Carter for Mr. Fay.

Q. Mr. Underwood, I show you what purports to be a copy of a contract which has heretofore been marked P-1200. Will you examine it and tell us what that is, please? A. This is an agreement between local Union No. 542, 542-A, and Pennsylvania Excavating Truckers Association.

Q. Covering what, Mr. Underwood? A. Covering all contract operations within the territorial jurisdiction of the local union.

Q. By whom is it signed? A. It is signed for the Truckers Association by John Buckley, President; A. J. Feraca, Secretary, and witnessed by Bernard Hirsch, attorney. However, for the union it is signed by J. H. White, and for the Eastern District Representative, Joseph Fay per William E. Carter.

Q. It is signed by Carter for Joseph S. Fay? A. Yes, sir.

Q. Was that contract ever taken up with the local union? A. No, sir.

Q. Was the membership consulted regarding the negotiations for that contract? A. No, sir.

[98] MR. O'BRIEN: That is objected to. How would the witness know, Your Honor?

THE COURT: He may answer if he knows.

THE WITNESS: I think it would certainly be a—

By MR. FREEDMAN—

Q. Did you attend all of the meetings? A. I attended every meeting that I can recall now. I might have been out of town and missed a meeting, but even when I was out of town I used to come in for the meetings.

Q. Was this contract ever circulated among the membership? A. No, sir.

* * * * * * * * *

[102] Q. Now, Mr. Underwood, I show you another contract and ask you to state who the parties to this contract are and what it covers and by whom it was signed?

THE COURT: Is that marked?

MR. FREEDMAN: Will you mark this for identification, please, Plaintiff's Exhibit 2.

(Contract between Builders and Union, from May 1, 1941, to April 30, 1942, was marked Exhibit P-2 for identification.)

MR. FREEDMAN: If the Court please, I would like permission now to cross out the deposition numbers.

THE COURT: We start new numbers in this case. Deposition numbers are completely unimportant.

MR. FREEDMAN: That is what I had in mind, sir.

[103] By MR. FREEDMAN:

Q. Give us the parties to the agreement, first, please, Mr. Underwood. A. The parties to the agreement are Local 542, 542A, and the Master Carpenters and Builders Company.

Q. Will you give us the date on it, please. A. The effective date of the contract is from the 1st day of May, 1941, to the 30th day of April, 1942. It is signed for the Builders by names that I can't quite make out.

Q. Who signed for the union? A. It is signed for the union by J. H. White, and again for Eastern District Representative Joseph S. Fay per William E. Carter.

* * * * * * * *

[105] By MR. FREEDMAN:

Q. Mr. Underwood, did the supervisors during the period of supervision to 1948 consult the membership regarding contracts? A. No, sir.

Q. Were there ever any negotiating committees in which the membership participated? A. None to my knowledge, no, sir.

* * * * * * * *

Q. Mr. Underwood, will you tell us in brief some of the major procedures which were followed in connection with the conduct of meetings during that period of supervision? A. Well, at the meetings, of course, members were not permitted to get on the floor to ask questions. There were men who always came into the meetings from New Jersey. Some of them were armed—I saw them wearing [106] arms—and if a man got up to speak on the floor, and if it wasn't something advocated by the super-

visor, approved by the supervisor, these men would walk down the sides and glare at them and threaten them and tell them they were going to take them outside, or to sit down or they would see them after the meeting and they would be taken care of, and this went on continually throughout the period.

Q. Did the supervisors make any report of the developments currently taking place in the union, financial or other reports? A. No, sir.

MR. O'BRIEN: To whom?

MR. FREEDMAN: To the membership at these meetings.

THE COURT: At the meetings that he attended.

MR. FREEDMAN: Yes, Your Honor.

THE COURT: That is implicit in the question. Read the question back, Mr. Schuman, so that Mr. Underwood can understand it and answer it.

(The reporter read as follows:)

[107] "Q. Did the supervisors make any report of developments currently taking place in the union, financial or other reports?"

A. The only reports I can recall was something they called a statement of disbursements. However, in all the meetings I attended I have never been able to understand what they had disbursed and for what purposes. At each meeting I attended there was a certain group who would immediately start engaging in loud conversations the moment they were going to read off disbursements. That was called to the attention of the supervisor many, many times but it was never corrected.

By MR. FREEDMAN—

Q. Are there any other incidents that you can recall, Mr. Underwood, major incidents of importance, that occurred at these meetings? A. Well, major incidents, I am not sure that I understand just what you mean.

By THE COURT—

Q. Let me ask a few questions. Where were these meetings held, Mr. Underwood? A. They were held up on Spring Garden Street, sir, 1803 Spring Garden Street.

Q. 1803 Spring Garden Street. That would be on the [108] north side of the street? A. Yes, sir.

Q. Premises 1803 Spring Garden are what? A. It is a building owned, I believe, by the Carpenters entirely, the Carpenters' Union.

Q. In other words, it is a building owned by a trade union? A. Yes, sir.

Q. A member of the A. F. of L. too, I assume? A. Yes, sir.

Q. Give me something of the layout of the building. Where would you meet? In what part of the building? How big was the building? A. Well, we met in various places in the building. There were small rooms on the third floor where occasionally they would meet. There was a larger room on the second floor. There were three stories, and it was a spacious building. In fact, I believe it was two homes in that area that was taken over, and the quarters were enlarged upstairs to provide for a large meeting room.

Q. All right, let us assume you are on the second floor in the meeting room. A. Yes, sir.

[109] Q. How many would the room comfortably hold? A. I suppose about 125.

Q. How many members would attend this series of meetings over the 1940's that you talked about? What would be the average attendance? A. The average attendance, I presume, would be about, oh, 65 or 70.

Q. What was the largest that you saw in that time? A. The largest, well, I don't know. About a hundred and probably 35 or 40. Some were standing.

Q. And as low as how many? A. Probably 35 or 40.

Q. 35 or 40 plus a hundred, with a hard core average, you would say, of somewhere between 60 and 80? A. Yes, sir, with one exception. I would like to qualify that. When

we were meeting in the smaller rooms upstairs during that period there would probably be, oh, 20 at the most in those small rooms. However, the membership did increase slightly and the attendance increased proportionately.

Q. In the early days there were 20 to 30? A. Yes, sir, about that.

Q. Then when you grew, your membership grew, you moved [110] downstairs into the larger room? A. Yes, sir.

Q. How was the room equipped? Did it have a stage or a rostrum? A. Yes, sir, it had a rostrum.

Q. And the supervisor and his assistants would be there; is that it? A. Yes, sir.

Q. Did the union have a secretary-recorder? A. Yes, sir, they had a person designated as a secretary.

Q. Did he change from meeting to meeting? A. Yes, I have seen a number of changes. There was one, I believe, who was presented to the membership as the secretary and was there most of the time as secretary.

THE COURT: All right, go ahead.

[111] By MR. FREEDMAN—

Q. Was there enforcement of the contracts by the Union, among the contractors, Mr. Underwood? A. I know—

THE COURT: Read that question.

MR. O'BRIEN: That is objected to, sir.

THE COURT: Read that question back. I didn't quite get it.

(The pending question was repeated by the reporter.)

THE COURT: Do you object to it?

MR. O'BRIEN: Yes, sir, I object on the ground that it would be hearsay and would be irrelevant to the issues here in trial.

THE COURT: I am going to permit the witness to answer if he has any personal knowledge.

MR. FREEDMAN: I will qualify my question to that extent.

By MR. FREEDMAN—

Q. Do you have any personal knowledge of any enforcement of contracts, Mr. Underwood— A. I have—

Q. —by the Union? [112] A. —personal knowledge of non-enforcement and enforcement of the contracts.

Q. Will you tell us what you know about the enforcement or non-enforcement, please? A. Well, I know that generally on jobs I have been on—

MR. O'BRIEN: Objected to. I think he ought to be specific as to enforcement and non-enforcement.

THE COURT: A person can only be specific after they are general, Mr. O'Brien. I am not going to stop it on that ground. But in answering the question he is speaking from personal knowledge now, and only from personal knowledge, so I will permit him to answer. The objection is overruled.

Go ahead. You were asked about your personal knowledge of enforcement of the provisions of a bargaining agreement between the contractors and the Union, and your personal knowledge of lack of enforcement. That is what you were asked, and now let's find out before you start what period you are talking about, what years, and so forth. I think that is also of importance at this point.

MR. FREEDMAN: Starting say from 1940 on.

THE COURT: To a certain date.

[113] MR. FREEDMAN: To the time of termination of supervision in 1948.

A. Yes. Well, I have had many personal experiences where the contract was not being enforced and where I called the Union and pointed it out to them and asked them to send someone out to correct it.

By THE COURT:

Q. Now we are at the point that Mr. O'Brien indi-

cated. You have to become specific. Give us the terms of the contract and the situations that were not being lived up to, and so forth. We are at that point now, Mr. Underwood. Suppose you elucidate on that. A. Yes, sir.

By MR. FREEDMAN—

Q. Will you do that, please. A. The contracts provided, among other things, that engineers be employed in the operation of air compressors, pumps, welding machines, small hoists and like equipment of that nature. It was work that didn't require too high a degree of skill. However, it was work within the jurisdiction of the Union, and mostly the older men in the Union would be given those jobs, assigned to those jobs.

On jobs that I have been on I have seen these [114] compressors and pumps and welding machines being operated without a member of the Union being employed. Laborers would be operating them. I would call these things in to the Union. In several cases I was told to keep my mouth shut or get off the job if I didn't like it. Of course, that was the experience I know with many others in the Union.

MR. O'BRIEN: I move to strike that.

A. (Continuing) We have talked about it.

THE COURT: I will strike out the last sentence that he volunteered. The earlier I will not.

By MR. FREEDMAN—

Q. Were those matters brought up on the Union floor, Mr. Underwood? A. Yes, sir, they were.

Q. Brought to the attention of the supervisor, the man in charge of the meeting? A. Yes, sir.

Q. Will you tell us what happened, what disposition was made. A. There was no certain pattern, I mean, to dispose of these things at meetings. There were two or three members I know who got up on the floor and objected to [115] these things. I did, too. They would simply ask you how long you had been in the Union, perhaps. If you had been in five years or less they would say "You ought to

know better than to try to run a Union only being in here five years." If it was longer they would say "You ought to know better than to raise these questions" and they would point to the constitution, or make other threatening statements to members who raised the questions. Or in some cases they would say, "Well, we will investigate it."

I know in my own experience those cases weren't investigated. There were some, of course. Every job wasn't running without Operators. But I mean it was quite common to experience this in the Union.

Q. Did the Union deal with subcontractors in a manner different than they did with others during that period? A. Yes, sir.

Q. Will you tell us what you know about that of your own knowledge, please. A. Well, I worked for instance for Buckley and Company, and while I was employed by him I know he was one of the persons who negotiated with the supervisors in the area, and I worked for him for quite some period of time, and I would call in, of course, violations of the agreement on his job, and I never knew a business agent yet to come [116] on his job and try to correct them.

That was one of the jobs where I was told by the supervisor to shut up or get off the job. Mr. Buckley himself has told me that I should stop calling in to the Union, because it would do me no good and I would only get into trouble. That was one instance that stood out because I knew that Mr. Buckley and his supervisor were rather friendly. In fact, he told me they were.

Q. Were those matters, were those experiences which you have just related and other similar experiences ever brought up on the floor of the meetings? A. Oh, yes. I can think of nothing actually that wasn't brought up on the floor at some time or other.

Q. What disposition was made by the supervisor to those complaints? A. Well, it was similar, I mean, to the others. He would either tell you he would check on it or

tell you to sit down or they would say "You are out of order."

In fact, that occurred I guess more often than anything else, that you were simply out of order and bang the gavel and insist that you sit down.

Q. Mr. Underwood, can you recall any specific instances [117] of violence against members by the supervisor or by his agents during that period? A. Yes, sir. I remember very distinctly that a member named Sam Morris was struck by the supervisor, that is, the assistant supervisor, Mr. White. I know his jaw was broken and he had to have his teeth wired up, and I talked to him a number of times. I was there at the time it happened, actually in the vicinity.

I know that a man named Ray Dawson was beaten very severely and kicked badly on the floor of the meeting, a meeting I attended.

Another fellow named Lou Finney was beaten very badly on the floor of the meeting. Those are instances of my own personal knowledge.

Q. Did Mr. Fay ever attend these meetings? A. Yes, sir.

Q. Were these matters brought to his attention? A. Oh, yes. These not specific instances, perhaps, but generally, I mean, the brutality was brought to his attention at the meetings.

Q. Did he take any action about it? A. No, sir.

Q. Mr. Underwood, did the rank and file of the member [118] ship take any action finally to terminate supervision during that period? A. Yes, sir.

Q. Will you tell us about that, please.

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Well, it began actually in about 1945, I would say, when two or three of us decided to try to do something about the situation to get our elections and to stop the kind of management we were getting in the Union.

Q. Can you give us the names of some of the others who were involved? A. Sir.

Q. Can you give us the names of some of the others who participated? A. In the initial group I believe there were Thomas McDermott—oh, I just don't recall the names now. There were only two or three actually that we discussed it between us and then decided to go ahead with it.

Q. Tell us what happened, please. A. Well, we started the movement actually and decided to go around and contact other members to see whether or not they would authorize an action to be filed in the [119] Common Pleas Court. We went throughout the upstate areas and as we went along, of course, the group increased slightly and we were followed almost always by agents of Mr. Fay who would come around and warn the men, of course, against having anything to do with us or the movement. So we eventually were able to get 100 signatures on the authorizations, which we presented to a lawyer, and he agreed to file an action in the Common Pleas Court. Each man was to contribute $10 with the authorization. That action was filed in December Term 1946, Common Pleas Court.

[120] Q. Who was the lawyer? A. Mr. Robert G. Kelly.

Q. Did you file a complaint at that time? A. Yes, sir, we filed a complaint.

Q. I should say was there a complaint filed on behalf of the group that you just described at that time? A. Yes, sir.

Q. Mr. Underwood, I show you a complaint entitled Thomas F. McDermott, Charles R. Dawson and Edward Nicoletti—three plaintiffs—against the International Union of Operating Engineers, William E. Maloney, General President, F. A. Fitzgerald, Secretary, Joseph S. Fay, Fourth General Vice-President, Local Union No. 542 and subdivisions 542A, B and C, Jasper H. White, Assistant Supervisor and Business Manager, Henry Acchione, James J. Corbett and Edward Piscatelli, Business Agents, Michael

F. Mogan, President and Treasurer and Business Agent, Martin McHale, Vice-President and Trustee, Otto Weidman, Maurice Rudden, Joseph Devlin, Daniel Gardner, Alex Capaldi and William Rodney.

It is marked December Term 1946, No. 3187 In Equity, Common Pleas No. 2, Philadelphia County.

Would you examine that complaint and let [121] me know whether that is the complaint that was filed in connection with the law suit you just testified to? A. Yes, sir. This appears to be the complaint.

MR. FREEDMAN: Will you mark this, please as Plaintiff's Exhibit 3?

(A copy of the bill of complaint, Common Pleas No. 2, December Term, 1946, No. 3187 In Equity, was marked for identification as Exhibit P-3.)

MR. FREEDMAN: If the Court please, may I read some of these allegations into the record at this time?

MR. O'BRIEN: That is objected to, sir.

THE COURT: I sustain the objection.

By MR. FREEDMAN—

Q. What happened to that lawsuit, Mr. Underwood?

MR. O'BRIEN: Objected to.

THE COURT: The docket entries are the best evidence, but I am still going to overrule the objection.

MR. O'BRIEN: I am not being technical about that. It is the way the question was phrased. He said, "What happened to that lawsuit?" I don't know if this man is qualified to say what happened to it.

[122] THE COURT: We will soon find out.

MR. FREEDMAN: Here is what happened to it (indicating).

THE COURT: What is that, the decree?

MR. FREEDMAN: This stipulation that is coming up will be Exhibit No. 4.

THE COURT: The stipulation of settlement?

MR. FREEDMAN: Yes, Your Honor, before Judge Gordon in C. P. No. 2, dated December 1, 1947.

THE COURT: You say December 1, 1947?

MR. FREEDMAN: Yes, Your Honor. That will be No. 4.

THE COURT: What is that equity suit number? Will you give me the number on that?

MR. FREEDMAN: No. 3187, Your Honor, December Term, 1946 In Equity.

THE COURT: That is C. P. 2, I assume, Philadelphia?

MR. FREEDMAN: Yes, Your Honor.

THE COURT: All right.

(A copy of a stipulation dated December 1, 1947, regarding C. P. No. 2, December Term, 1946, No. 3187 In Equity was marked for identification as Exhibit P-4.)

[123] THE COURT: We will take a ten-minute recess at this time.

(Short recess.)

By MR. FREEDMAN—

Q. Mr. Underwood, are you able to tell us what the outcome of that lawsuit was?

MR. O'BRIEN: Objected to, sir. Plaintiff's Exhibit 4 speaks for itself.

THE COURT: I will overule the objection.

A. On the day we were scheduled to go to trial in the Common Pleas Court, the attorneys for the International Union asked for a conference in the judge's chambers, and there they entered into an agreement or a stipulation that they would have an election among the membership of Local 542 under the supervision of the Court to determine,

first, whether they wanted supervision to continue or terminate, and, second, an election of offices if the vote was in favor of termination.

Those elections were held, and as a result of those elections under the Court's supervision, why, the autonomy group was elected.

[124] By MR. FREEDMAN—

Q. I show you, Mr. Underwood, Plaintiff's Exhibit 4 and ask you whether that is the stipulation that was entered into in the case? A. Yes, sir.

MR. FREEDMAN: May I read this? It is very brief, Your Honor.

THE COURT: You may.

MR. FREEDMAN: In the action entitled McDermott, et al., vs. the International Union of Operating Engineers, before Honorable James Gay Gordon, Jr., on December 1, 1947.

"Present: Robert G. Kelly, Esq., and
Bernard J. Duffy, Esq.,
For Plaintiffs
Frank B. Murdoch, Esq., and
Marcus Manoff, Esq.,
For Defendants.

"THE COURT: It is agreed by and between the parties hereto that this case shall be settled upon the following terms and conditions:

"1. An election shall be held for the [125] purpose of determining whether or not a majority of the members of the local union in this case voting thereat desire to be subject to the supervision of the international union; the said election to be conducted by a Master appointed by the Court for that purpose, who shall have power to conduct said election, rule upon all questions of qualifications to vote thereat, and

otherwise rule upon all questions in connection with the conduct of said election that may arise during the course thereof.

"2. A return or report by the Master of the conduct and result of said election shall be filed by him of record in the case.

"3. The rulings and actions of the Master in passing upon the qualification of persons claiming the right to vote shall not be reviewable by the Court, but questions of law arising out of the general conduct of said election by the Master may be, and the parties agree to be bound by the results of said election.

"4. If the said election results in the decision of the said local union not to be subject to the supervision of the said international union, [126] the Court shall appoint a person to act as Master in conducting, in the same manner as provided for above, an election of officers of said local union, the present officers thereof agreeing to resign, so that vacancies shall be created to which the members may elect officers to fill said vacancies in the manner aforesaid.

"5. The Master shall in like manner report to the Court the results of said election of officers by which said local union agrees to be bound in the same manner as the parties agree to be bound with respect to the first election hereinbefore agreed upon.

"6. The present hearing of the case shall be continued until the conclusion of the election or elections hereinbefore agreed upon, and upon the final determination of the results thereof this case shall be marked settled, discontinued, and ended.

"7. The costs of holding said election, including the compensation of the Master and any persons necessarily employed by him with the approval of the Court to assist the Master in the conduct of said election shall be paid by the said [127] local union and taxed as part of the costs of this case.

"It is further agreed that no charges will be made against, or punishment inflicted upon, any members of the said local union because of his participation in the present litigation.

"THE COURT: Do you gentlemen agree to the foregoing provisions?

"MR. MURDOCH: I do.

"MR. KELLY: I do."

MR. O'BRIEN: If Your Honor please, I don't know whether my general objection continues to this point or not. We are now up to 1948, and as I understood Your Honor's ruling, I understood it to take us up that far. If it doesn't apply, I would like to object to the reading of Plaintiff's Exhibit 4 into evidence.

THE COURT: Objection overruled.

By MR. FREEDMAN—

Q. Mr. Underwood, were there any releases demanded by Mr. Maloney and his co-defendants in that case? [128]
A. Yes, sir, there were.

Q. Were they given? A. Yes, sir.

THE COURT: Didn't I enter an order somewhere in the Dawson case with respect to your obligation to make known names?

MR. O'BRIEN: Yes, sir, that is the one I referred to in my opening.

MR. FREEDMAN: To make known names—no, that was the one that Mr. O'Brien read this morning. Your Honor stated in that order that if we had anybody to add to it, we should do so by a certain date, and I replied and made known to the other side that I was going to stand on the individuals already named as being the proper representatives.

THE COURT: Well, that was in the pre-trial proceedings of March 28, 1956, in chambers. In the

light of these proceedings you informed them that you were standing on the persons named?

MR. FREEDMAN: Yes, Your Honor.

THE COURT: And that is the present status, the legal status, of this record, at this time?

MR. FREEDMAN: Exactly, sir.

[129] THE COURT: All right.

MR. FREEDMAN: I just showed two documents to my friends so that they can examine them before I present them to the witness.

THE COURT: All right.

MR. FREEDMAN: Will you mark these as Plaintiff's Exhibits 5 and 6?

(A copy of a release dated October 22, 1948, from Local 542 to International Union of Operating Engineers was marked for identification as Exhibit P-5 and P-5-A.)

(A copy of a release dated October 22, 1948, from Local 542 to Henry Acchione, et al., was marked for identification as Exhibit P-6.)

[130] Q. Mr. Underwood, I show you Exhibit P-5 and P-5-A and I ask you to tell us what that is. A. Well, this was a release for any requirement of Mr. Maloney of the International Union.

MR. O'BRIEN: I didn't get that, sir.

MR. FREEDMAN: May I read that? Perhaps that would be easier.

MR. O'BRIEN: That is objected to, sir. This P-5 is about 1⅓ typewritten pages, which is not signed by anyone.

THE COURT: Hand it up, Mr. Greenwood, and let me look at it.

MR. O'BRIEN: And so is P-5-A.

MR. FREEDMAN: I am going to get to that in a moment.

By MR. FREEDMAN—

Q. Mr. Underwood, did you as business manager—

MR. O'BRIEN: Excuse me. I have an objection.

THE COURT: Well, there is no question yet. Let us get some questions that we can object to.

MR. O'BRIEN: I objected to Mr. Freedman's reading it into the record.

MR. FREEDMAN: I am not reading anything [131] into the record yet.

By MR. FREEDMAN—

Q. Mr. Underwood, did you as business manager sign a release releasing Mr. Maloney and the others in accordance with the stipulation or the settlement? A. Yes, sir.

Q. I show you a copy of a release marked Plaintiffs' Exhibit 5 and 5-A and ask you whether that is the release.

MR. O'BRIEN: Objected to, sir. There is no evidence of any delivery, nor is there any evidence of any knowledge on the part of the International that this was ever in existence.

THE COURT: Well, on that basis I would have to overrule it, but I consider it completely irrelevant, and I will sustain an objection.

MR. FREEDMAN: If the Court please, these documents were shown to these gentlemen before. They all have a deposition number. They have had these for a long time.

THE COURT: I understand that, but I can see no possible relevancy at this time. You have had them marked, and if later there is some relevancy established, I will hear some argument on it at that time.

They filed a suit. The suit was settled [132] by a stipulation, and in connection with it they gave releases, which is the ordinary, normal course of business in the settlement of any dispute. I can't see where it has any particular value at this time. However, you have had them marked, and if later they become

of some legal consequence, I will hear about it. Right now I can't conceive of any relevancy or any importance to those releases.

MR. FREEDMAN: I think that Your Honor will, after some more evidence goes in. Your Honor will see at that time.

THE COURT: At that time I will take it up again.

MR. FREEDMAN: I therefore won't even ask Your Honor for any further right to argue now.

THE COURT: Is that other one marked P-6?

MR. FREEDMAN: Yes, Your Honor. May I identify P-6, sir?

THE COURT: Yes, you may identify it.

MR. FREEDMAN: P-5 and 5-A is a release of the International officers, the International Union itself first, then Mr. Maloney and vice-presidents William Welsh, Imhahn, Delaney, Converse, Gramling, Swanson—all of the International officers, and six were the Local officers.

[133] THE COURT: And as I understand it, Mr. Underwood says that that is the form of release he executed.

MR. FREEDMAN: That is my understanding, sir.

By MR. FREEDMAN—

Q. Is that correct? A. Yes.

* * * * * * *

[135] Q. I show you a document which purports to be a petition for leave to intervene, by a certain contractor in a lawsuit entitled The Contractors Association of Philadelphia v. Local 542 and John J. McDonald.

[136] Mark that please, first.

(Petition for leave to intervene was marked Exhibit P-11 for identification.)

* * * * * * *

[137] Q. Can you answer that, Mr. Underwood?

A. I took this up with John J. McDonald, and I can only tell you what he described it as to me.

[138] Q. Who is John J. McDonald? A. He was the International vice-president and the supervisor of the International Union over Local 542 at that time.

Q. That was in 1947? A. Yes, sir.

Q. Did he replace Joe Fay? A. Yes, sir.

Q. When did Joe Fay's tenure terminate? A. When he was sent to prison was the first we knew.

Q. Can you place that? A. Well, it was in 1947, early 1947, or just prior to his being sent to prison.

* * * * * * *

[139] Q. Now, was the Union then prior to the time supervision was lifted under the direction of Mr. McDonald? A. Yes, sir.

Q. Did you discuss this matter with him in his official capacity as supervisor? A. Yes, sir, I did.

Q. What was your position at that time in the Local? A. When I first discussed it with him I had no position in the Local. That was before supervision was lifted. However, I did discuss it with him after I became an officer.

Q. Did this come to your attention in your official [140] capacity as president of the Local? A. Yes, sir.

Q. Will you tell us what this lawsuit involved, please? A. He told me that Mr. Carter had entered into an agreement with the George Flynn Corporation which provided for the waiver of many conditions of the contract, for lower wage rates, and so forth, on his particular job. When it came to Mr. McDonald's attention he said that he objected to it and insisted that the George Flynn Corporation comply with the area contract at that time, and eventually struck the job. As a result of that strike they went into court and asked for an injunction against the Union for breaching an agreement they had with Mr. Carter.

Q. Did Mr. McDonald disallow the contract which had been entered into by Mr. Carter? A. Yes, sir, he did.

MR. O'BRIEN: Objected to, sir.

THE COURT: I will sustain the objection. We are getting into legal conclusions and matters that are far beyond the scope of the ordinary judge. I am certainly not going to take any testimony on a matter like that if it is vital. I will sustain the objection to both the question and the answer and strike it.

[141] By MR. FREEDMAN—

Q. Mr. Underwood, did there come a time when there was an investigation by the Grand Jury in the Pennsylvania area in which Mr. Jasper White was required to produce the records of the Union?

MR. O'BRIEN: Objected to.

MR. FREEDMAN: May I make that a little more specific, sir? It was a Grand Jury investigation into alleged irregularities in the construction of the Mechanicsburg Naval Supply Depot, and a subpoena issued from the District Court of the United States for the Middle District of Pennsylvania directed to Local No. 542, International Union of Operating Engineers.

THE COURT: You are asking him what question? A lot of complications are involved—

MR. FREEDMAN: I am asking him whether he recalls that investigation.

THE COURT: Whether he recalls that there was a Grand Jury investigation. And the answer to that is yes or no.

Objection overruled.

A. I recall only hearing about it.

By MR. FREEDMAN—

Q. Yes or no? Do you recall that there was such an [142] investigation? A. Yes, I do.

By THE COURT—

Q. Let's get something straight between hearsay and otherwise. You added there first, you said you recalled

hearing about it. How, through the daily press? A. I presume so, and of course it was a topic of discussion among members.

Q. I imagine it would be. But what you heard was from third parties. Did you have any direct contact with it? A. At that time, no, sir.

Q. You didn't appear before the Grand Jury? A. No, sir.

Q. Did you see any official papers from that Grand Jury? A. After I became an officer of the Union, sir.

Q. After you became an officer of the Union? A. Yes, sir.

Q. When did you become an officer of the Union? A. In March of 1948.

Q. How soon after that did you see any official documents in connection with the so-called Grand Jury investigation. A. Oh, probably three or four months after that.

Q. What did you see? A. I saw—I don't know whether I can describe it. I [143] saw something that set forth, however, that a Grand Jury investigation had been held and I believe what I saw was the papers establishing that the United States Supreme Court had upheld the contempt conviction of Mr. White in connection with the Grand Jury investigation.

* * * * * * * * *

[144] Q. Mr. Underwood, during this period prior to the lifting of supervision in 1948, were there any reprisals against any of the men who were engaged in the movement to end supervision?

MR. O'BRIEN: Objected to.

By MR. FREEDMAN—

Q. That you are personally aware of.

THE COURT: I will overrule the objection.

You may recite facts which he knows of his own personal knowledge.

MR. O'BRIEN: I thought that the question called for a conclusion, Your Honor.

THE COURT: No, no. He can only recite facts.

A. One man—

By THE COURT—

Q. You may answer it. If you know any. Do you know any? Yes or no. A. Yes.

Q. All right. Now you may tell us about what they are, giving as nearly as possible the individuals involved, the [145] circumstances surrounding it, each particular instance, and the dates, as nearly as you can. A. Ray Dawson, who was active in the movement, was severely beaten at a meeting of the Local Union in about the middle of say 1947.

Q. By whom? A. By Edward Piscatelli, possibly his son, I am not sure about that. There were others involved. There were a couple there from New Jersey, in fact.

Q. Was it in the meeting hall? A. Yes, sir, yes, sir.

Q. What provoked the fight A. He was—

Q. Were you near enough to hear any conversations? A. No. Just prior to the fight I heard Mr. White charge him with getting involved in a movement to upset the International Union, and I heard Piscatelli say, "You are one of the rats." I saw him assaulted, and several others gathered around at that time.

Q. So you are not in a position to say who threw the first punch? A. I didn't see the first punch thrown, no, sir.

Q. All right. Of course, the ordinary man wouldn't stand by and be called a rat, would he? [146] A. No, sir.

Q. That is right. A. No, sir. And it wasn't likely that anyone would start a fracas with armed men in a meeting, either.

But of my own personal knowledge, I am just puzzled as to what I can testify to. However, of my own personal knowledge I know that I was followed on several occasions

when I was seeking employment, and I was kept out of work. At that time there as a closed shop agreement and they simply had to tell the employer that you were not in good standing with the Union and he wouldn't employ you.

For the Morrissey Company I was taken off the job after I had obtained employment. For E. A. Gallagher & Sons I was told to report for work and then told that the business agent had objected to me going to work.

Q. That who had objected? A. The business agent of the Union.

Q. Who was who at that time? A. The business agent at that time was Corbett, a fellow named James Corbett.

Q. Is this the same Carter we are talking about? A. No, this is Corbett, C-o-r-b-e-t-t.

Q. Corbett? A. Corbett, yes.

[147] I managed to get a job at the M. W. Kellogg Company at Gulf. The supervisor came down and in my presence told the project manager, a Mr. Weberling, to get rid of me, that I was wrong as far as the Union was concerned. He made similar requests—at least the superintendent told me he had—on subsequent occasions. The C. F. Braun Company in Chester, where I had obtained employment directly as a master mechanic, was also told to get me off the job, that is, the project superintendent, whose name escapes me at the moment.

I was told many times by the supervisor that I would be kept on the bench as long as I opposed the International Union, and I never received a job, of course, out of the day room of the Local Union during that period of time that we were opposing the International. It is customary—

Q. That is from the time you started the suit until supervision was lifted, is that it?

A. Yes, sir, that's right. It was customary, of course, to report to the Union to be assigned to jobs, since you had to get cleared through the Union to go to work. During that period of time I knew many others, of course, who

hadn't received employment either. But that was my personal experience.

[148] By MR. FREEDMAN—

Q. Mr. Underwood, —

MR. O'BRIEN: Excuse me.

If Your Honor please, the witness' answer contains an awful lot of hearsay evidence, and it is pretty hard to pull out the competent evidence from the hearsay evidence. I therefore ask that his answer be stricken.

THE COURT: No, I will permit it to stand.

By MR. FREEDMAN—

Q. Mr. Underwood, you have testified about a man named Carter. Was that William E. Carter?

A. William E. Carter, yes.

Q. Was there another Carter in the Union who participated in the Union's affairs?

A. Yes, sir.

Q. Who was he?

A. That was his son, John Carter, who was an agent working under Joseph Fay.

Q. Had he been a member of Local 542 before?

A. No, sir.

Q. Where was he from?

A. Local 825 in New Jersey.

* * * * * * *

[155] By MR. FREEDMAN—

Q. Mr. Underwood, after you were elected by the membership as president and business manager, will you state what condition you found the office and the records to be in when you assumed control.

MR. O'BRIEN: Objected to.

THE COURT: I will overrule the objection, but again I caution you I want facts; I don't want opinions.

MR. FREEDMAN: That is what I am after, sir.

By MR. FREEDMAN—

Q. Restrict your answer, Mr. Underwood, to specific conditions and facts which you know of your own personal knowledge.

A. Well, I found no letters, no memoranda of any kind, between the Union and other parties, particularly the contractors with whom they had been negotiating for several years. I found no records indicating even who the contractors were that they had been negotiating with, [156] and there were no records of the permit fees that had been accumulated or received by the Union over the years. I mean together with the bookkeeper we tried to locate these records. However, we found none, practically none.

As far as correspondence was concerned, we had nothing on which to base our approach to the contractors to start our bargaining.

Q. What about financial records?

A. We found no records at all indicating how they had disposed of these permit fees that had come into the Union over the years.

Q. What changes if any did you introduce into the management of the Local? Will you give us those from the very beginning, please?

A. Well, the requirement for the 542-A, B, and C members to pay $2.50 a week for the right to work on jobs was eliminated. The B members and A members who had been in those branches for many years, and who were thoroughly qualified to operate equipment, were given the right to transfer into the parent body, where they could vote for their officers and participate in the Local's affairs.

[157] Complete records were kept. Larger office quarters were obtained. Modern office equipment was purchased. A hiring hall was set up adjacent to the Union, where men could report to be assigned to jobs. A switchboard was installed in the Local office to expedite calls coming into the hiring hall and in and out of the office. Radio telephones were installed in the automobiles of the agents, where they could be contacted in case disputes arose on

the jobs. They could be contacted immediately and assigned to various areas where they were needed.

The treasury, of course, was built up. The Local Death Benefit Fund was built up. All applicants for membership came before the Executive Board. All applications were acted upon, which was something, of course, that had never happened before.

MR. O'BRIEN: I object to that, Your Honor, and move that it be stricken; and also, if Your Honor please, we are now up to the point where Mr. Underwood has assumed his official role in the Local, and, of course, it is our position that any testimony not pertaining to the issues of this trial are irrelevant.

So that I will not have to get up and object [158] to every question, could I have an objection to this whole line of testimony?

THE COURT: Yes, but I will overrule your objection.

MR. O'BRIEN: Thank you, sir.

THE WITNESS: Business agents were required to make reports daily to the Union of their activities, and there were a number of other innovations that just don't occur to me now.

By MR. FREEDMAN—

Q. To what extent was the parent body expanded by one of those innovations that you mentioned?

A. Well, the membership in the parent body was doubled, at least, over the period of local autonomy.

Q. What about the Death Benefit Fund? How much was in it when you first took it over?

A. I believe there was about, oh, seven or eight thousand dollars in it when we took over. It was over $100,000. well over $100,000, I believe, in 1952.

Q. What about the treasury of the Union?

A. The treasury was built up from about twenty,

between twenty and twenty-five thousand to over a hundred thousand dollars.

[159] Q. Did the Local hold meetings regularly after you took office?

A. Yes, sir, they did.

Q. How frequently?

A. Once each month and sometimes a special meeting in between the regular meetings.

Q. Will you give us the specific procedure which was adopted at these meetings?

A. Well, the meetings were opened, of course, and conducted in accordance with the ritual of the International Union, but the difference being that members were permitted the opportunity to get up and speak at meetings, air their opinions, without any fear whatever of discrimination if that differed with the official policy of the Local Union.

The men took full advantage of those rights and exercised them freely. The result was that we had very democratically operated meetings, and any grievances that might have come up from the men were allowed to be aired on the floor of the meetings. We had no fights of any kind; we had no violence.

Q. Did Mr. McDonald participate or attend all of these meetings and functions?

[160] A. Practically all of them, yes.

Q. What about your Executive Board? Will you tell us what the procedure was for that Board. First of all, how was it set up?

A. There were twenty members on the Executive Board, set up in accordance with the constitution, consisting of the line officers in the Local Union and business agents and others.

Q. Were they appointed or elected?

A. They were appointed. They consisted of the elected officers in the Union plus the business agents and other appointed members.

Q. Those who were appointed were appointed by whom?

A. By me as president.

Q. And were they subsequently approved by the membership?

A. Yes, sir.

Q. Now, will you tell us how frequently the Board met and what they took under discussion as a general practice, please?

A. Well, the Board met regularly each month the day before the regular meeting of the membership, and they discussed the general policies of the Union and made recommendations to the membership. In addition, they examined applicants for membership in the Union and [161] recommended, of course, further investigation in cases where they felt it was required of applicants.

Q. Did Mr. McDonald attend these meetings also?

A. Practically all of them, yes, sir.

Q. Mr. Underwood are you able to state from your personal knowledge whether Mr. McDonald was kept advised of all the activities in the Local Union?

A. Yes, sir, he was.

Q. Did he travel with you from place to place in connection with your business?

A. Yes, sir, virtually every time it was necessary to go out of town on business, and, of course, he was in the office practically every day, and we discussed matters in the office. Mr. McDonald was there.

Q. And did he advise and guide you?

A. Yes, sir, he did.

Q. Was he helpful to you?

A. Yes, sir.

Q. Do you know whether Mr. McDonald communicated regular reports to the main office in Washington?

A. Yes, sir, he did.

Q. How do you know that?

A. Well, he was in the office with us. He had an

[162] office, of course, office space of his own and a desk. However, each day he would come into the office and discuss various things that happened on the jobs where he had been present. He would make notes. He would tell me that he was preparing it for his report. He would ask the identity, perhaps, of certain contractors or ask me if I had received calls on the phone from different contractors or different parties which we were particularly interested in at the time.

He often wrote out a portion of his report in longhand in the same office. He turned this over to my secretary in many cases to type, and he would then sign it and she would mail it. It was almost a ritual in the office, the weekly reports of Mr. McDonald.

Q. Let me go back one moment. During the period that the Union was under supervision by Mr. McDonald, do you recall what period that was?

A. Yes, sir, he came in early in 1947.

Q. Are you able to state whether he personally took any measures to eliminate any abuses from the Union?

MR. O'BRIEN: Objected to.

Q. And I will ask you for specific instances, please?

A. Yes, sir, I think he did.

THE COURT: I overrule the objection. Go [163] ahead.

By MR. FREEDMAN—

Q. Will you give us those, please.

A. Well, he first effected the removal of Jasper White, assistant to Joe Fay. Whether he was discharged or not, I don't know, but I understood later that he was, from Mr. McDonald.

He then fired John Carter, who was William Carter's son, and—

Well, I can think of nothing else at the moment. There was very little time, of course, for him to do anything until the supervision was terminated.

* * * * * * * * *

[164] Q. You have testified that Mr. McDonald attended the Executive Board meetings with you. Did he in the course of those meetings give his advice and suggestion in connection with the different matters that came up for discussion? A. Yes, sir, he did.

Q. Was his advice heeded by the membership of the Board and yourself?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Generally speaking, yes, almost in all cases. There were some mild disagreements on the policy or methods that we might pursue in organizing, and so forth, but there was no vigorous disagreement, violent disagreement of any kind, just a matter of discussion between us and we would both then mutually agree that a certain thing could be done perhaps under the [165] constitution. That was discussed many times with Mr. McDonald.

Q. I think you also testified that Mr. McDonald also attended the membership meetings. Did he also participate in those meetings in the sense of talking to the membership or giving advice there? A. Oh, yes, on many occasions.

Q. Was he respected by the membership?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

By MR. FREEDMAN—

Q. Were his suggestions adopted by the membership in these meetings? A. Yes, sir. I have never known an instance when they were not.

Q. Were they respectful to him at all times? A. Yes, sir.

Q. Now, what about the contracts? What contracts did you find in existence when you came into office? A. The only contract in existence at that time was the one with the contractor associations in the Philadelphia area.

Q. Excuse me just a second. There was one other point that I would like to develop before we get into the [166] contracts, and that is you mentioned before that you had conducted an organizational campaign. When did you start that, and will you tell us about that, please? A. Well, that started I think in about May of 1949— it actually started in 1948. I was thinking of the Turnpike, when that started. But the membership, we found that no contracts were in effect outside the Philadelphia area; none had been established, and we had many members working in other areas, that is, living in other areas, and we started an organizing campaign to try to get contracts established outside the Philadelphia area. That continued up until, well, up until the time actually that supervision was imposed on the union in 1952.

Q. Now, was that done with the assistance of Mr. McDonald and the general office in Washington? A. Yes, sir.

Q. Were they kept informed of the activities from time to time? A. Yes, sir.

Q. By whom? A. Both by Mr. McDonald and myself.

Q. Will you tell us what success you had in that organizational campaign? [167] A. Well, we were fairly successful, I would say. We had a number of obstacles to overcome, but all in all, I mean, we did meet with considerable success.

Q. What was your membership when you took over? A. The membership was about two thousand.

Q. And what was it when you left office. A. About four thousand.

Q Are there any specific incidents in connection with the organizational campaign—strike it out, please.

You mentionel some obstacles before in connection with the organizational campaign. Will you tell us what they were? A. Well, at first, of course, we weren't very welcome in the upstate areas, particularly on projects. During the war years it had been the policy of the Inter-

national Union to keep men on permit, working on permit on those jobs.

MR. O'BRIEN: That is objected to, sir, and I move it be stricken.

THE COURT: I will grant the motion.

Proceed.

By MR. FREEDMAN—

Q. Go ahead, Mr. Underwood. [168] A. When we approached men to join the union, who were working for non-union employers, they would tell us about the situation and said they wanted to get into the union during the war years but they had to pay large sums of money in order to hold their jobs and the union wouldn't accept them into membership.

MR. O'BRIEN: I move that that be stricken, too, Your Honor, as not competent evidence.

THE COURT: I will grant the motion.

By MR. FREEDMAN—

* * * * * * *

[169] Q. Mr. Underwood, would you please limit your testimony to those matters concerning which you have personal knowledge. If you have any personal knowledge regarding such discussions, and so on, I would ask you to give it. I think that would fall within His Honor's ruling. A. Well, we did succeed—

Q. Do you understand the limitations of the question now, Mr. Underwood? A. I believe I do, yes.

Q. Go ahead. A. We did ultimately manage to establish contracts with certain employers and certain employer associations whom we assisted in forming at the time throughout the upstate area and in the State of Delaware. However, we ran into a tremendous obstacle in our organizing campaign on the Turnpike, the Philadelphia Turnpike. That began in about May, I believe, of 1949.

[170] At that time we were trying to induce the men to come into the union, to join the union. We were going

to their homes, we were meeting with them off the job, we were trying to get on the jobs to talk to them. And we found that men were coming in from local Union 66 in Pittsburgh and crossing our picket lines to work for these contractors who were working non-union.

Q. Who was in charge of that local at that time? A. Hunter Wharton.

Q. He is the present supervisor? A. Yes, sir.

Q. And he is Mr. Maloney's assistant? A. Yes, sir.

Q. Go ahead. A. He became his assistant after the situation upstate.

We induced many of the local 66 men not to go in and cross the picket lines and to return to Pittsburgh. However, as fast as we got them over, and faster sometimes, they kept coming in from Pittsburgh, and we were told up there by these men that they were told to come in here.

MR. O'BRIEN: I move that that be stricken, Your Honor.

[171] By MR. FREEDMAN—

Q. Were you personally told that? A. Yes, sir.

Q. Go ahead.

MR. O'BRIEN: I object.

THE COURT: Overruled.

A. Of course, Mr. McDonald was familiar with it. He was with us at the time when we had meetings with these men and he was sending in complaints to Mr. Maloney.

By MR. FREEDMAN—

Q. Was any report or protest made to Mr. Wharton? A. Yes, sir.

MR. O'BRIEN: Objected to.

By MR. FREEDMAN—

Q. By you? A. Yes, sir.

Q. By Mr. McDonald? A. Yes, sir.

Q. Do you know that of your own knowledge? A. I was present when he called on the telephone, called Mr.

Wharton on the telephone, and asked him to do something about the situation, to send an agent in to try to keep these men from crossing our picket lines.

[172] Just about that time Mr. Maloney was demanding in a letter to us that unless we made more progress with our organizing in the upstate area that he would take the territory away from us and—

MR. O'BRIEN: If Your Honor please, that is objected to unless the letter is presented.

MR. FREEDMAN: We will get the letter. We will put it in evidence.

Will you mark as 13 and 13A a letter from Mr. Maloney to Mr. Underwood dated March 1, 1950.

(Two-page letter dated March 1, 1950, from William E. Maloney to Mr. Roy J. Underwood, was marked Exhibit P-13 and P-13A for identification.)

MR. FREEDMAN: And as Exhibit 14, a letter from Mr. Maloney to Mr. McDonald dated June 6, 1949.

(Carbon copy of letter dated June 6, 1949, from Mr. William E. Maloney to Mr. John J. McDonald, was marked Exhibit P-14 for identification.)

By MR. FREEDMAN—

Q. Mr. Underwood, I show you Plaintiff's P-13, P-13A, and 14. Will you state whether you received those letters or whether you are familiar with those letters and whether they are the letters that you had reference to. [173] A. Yes, sir. There was other correspondence, too, about the same time, that I saw, around the time of June 6th.

Q. Will you read those letters to the Court, please?

MR. O'BRIEN: That is objected to, sir. Of course, it is our position that this is all immaterial to the issues here, which is the basis of our prior objection.

THE COURT: Let's get something straight. Is it

your theory of the case that there is an issue here of conduct all detailed to the conduct of Mr. Underwood during the time that he was President of this Union?

MR. FREEDMAN: That is part of it, sir, and also part of a plan. This would involve Mr. Hunter Wharton, who is the present supervisor, and also a plan between Mr. Maloney and Mr. Wharton and the manner in which they conducted the affairs, their own affairs, in connection with the business of Local 542, sir.

THE COURT: Well, am I supposed to sit in judgment and say that one of them is a good businessman and the other isn't?

MR. FREEDMAN: No, Your Honor, we are not asking you to do that.

[174] THE COURT: I definitely will refuse to do it.

MR. FREEDMAN: We are not asking Your Honor to do that. This is part of the entire pattern which we are going to present to Your Honor. It is only another little point in it to show just what Mr. Maloney's intentions were and what he really wanted to do in this jurisdiction. It all forms, as I said, a part of the general pattern.

THE COURT: Again we come back to the question of power.

MR. FREEDMAN: Sir?

THE COURT: Again we come back to the question of power.

MR. FREEDMAN: That also is involved, Your Honor, very much so.

THE COURT: Get the exhibits and let me look at them, Mr. Greenwood.

(Exhibits P-13, 13A and 14 were handed to the Court.)

THE COURT: Very well, he may read it.

THE WITNESS: Is there any order in which you want these read?

MR. FREEDMAN: The main letter first.

[175] Which is dated first?

(Discussion off the record.)

By THE COURT:

Q. Read Exhibit 13 and then Exhibit 14. A. Do you want me to give the date of the letter?

Q. Give the date of the letter. A. The letter is dated March 1, 1950.

Q. On the letterhead of? A. On the letterhead of the International Union of Operating Engineers.

Q. Directed to? A. Roy J. Underwood, Business Manager, Local Union No. 542, 121 North Broad Street, Philadelphia 7, Pennsylvania.

Q. All right. A.

"Dear Sir and Brother:

"I have your letter of February 27, 1950, in regard to your difficulties in organizing the highway work in the upstate Pennsylvania area. In your letter you state that the Executive Board and membership of Local Union No. 542 are decidedly against further organizing expenditures on this type of work, and you further state that the feeling is prevalent that a substantial portion of the expenses incurred . . . should be assumed by the [176] General Office.'

"I should like to state initially that I am thoroughly dissatisfied with the attitude and efforts of Local Union No. 542 in regard to the highway work outside the Philadelphia area. I wrote Vice President McDonald on June 6, 1949, and instructed him that if he did not intend to organize the men in this territory that I was going to put another Local Union in there who would do the job or assign the task to another Local Union who would do the job. The International Union has expended a large amount of money and

time and has called upon other Local Unions to render considerable assistance to Local Union No. 542 in organizing contractors on the Pennsylvania Turnpike.

"I want you to clearly understand that under no circumstances will the International Union assume any responsibility for any expenditures made in an effort to organize this work, and I want to make it clear that if you do not want to organize this work, that I shall turn it over to somebody who does.

"If Local Union No. 542 does not want [177] the outlying territory outside of Philadelphia, I think it would be to the best interest of all concerned to institute another charter which would cover the work lying within the jurisdiction of the International Union of Operating Engineers.

"I know that you personally have tried hard to organize this work, but I am far from isfied with the results obtained in this campaign to organize the engineers in the outlying territory.

"For your information I am enclosing copy of a letter of June 6, 1949, which clearly sets forth my position. I want an immediate answer from you as to what the position of Local Union No. 542 is in this matter so that I may decide on what steps to take.

"With kindest regards, I am

"Fraternally yours,
"William E. Maloney,
"General President."

[178] Q. Now will you read the other letter, please, which was enclosed. A. This is a letter dated June 6, 1949, on the letterhead of the International Union of Operating Engineers, addressed to John J. McDonald, Third Vice-President, 121 North Broad Street, Philadelphia 7, Pennsylvania.

"Dear Sir and Brother:

"I have your letter of June 3, 1949, and I have

received also report from Representative Hunter P. Wharton in reference to the conference between you, Brother Wharton and Business Manager Underwood of Local Union No. 542.

"What I am primarily interested in, Brother McDonald, is who is going to organize those non-Union contractors around Harrisburg, Pennsylvania, on the new extended Pennsylvania Turnpike. From my information there have been twelve contracts let. One is non-Union; one is partly Union and the rest are strictly non-Union.

"I want a definite answer as to what is going to be done; if you intend to organize the men in that territory, or if you do not I am positively going to put another Local Union in there and take the territory away from Local Union [179] #542, as it is foolish to keep on trying to get along with a Local Union that is not organizing the engineers.

"Immediate report on this would be appreciated.

"With kindest regards, I am

"Fraternally yours,"

Signed William E. Maloney, General President.

Q. By the way, Mr. Underwood, do you know whether, prior to your election, Mr. Maloney had made any similar requests of those in charge of the Local Union? A. I had never heard of any.

Q. Do you know whether any organizational drive had been conducted by your predecessors? A. No, sir, I had never heard of any organizing drive.

* * * * * * * *

[185] Q. Mr. Underwood, I show you P-16 with enclosure and ask you to please identify it and tell us what it is. A. Well, this is a letter dated September 28 that I wrote to Mr. Maloney in connection with our efforts to organize the Turnpike and describe the activities of

[186] Local 66 in connection with our efforts to organize. It also refers to a contractor with a national agreement who was working non-Union on the Turnpike and refusing to accept the conditions in the area.

Q. Will you read that letter, please.

MR. O'BRIEN: Objected to, sir, as immaterial.

THE COURT: It may be, but I will permit it.

A. This is on the letterhead of International Union of Operatings Engineers.

By MR. FREEDMAN:

Q. Will you keep your voice up, please, Mr. Underwood. A. Yes, sir.

It is on the letterhead of the International Union of Operating Engineers, Local 542, 542-A, 542-B, and 542-C, dated September 28, 1949, addressed to William E. Maloney, General President, International Union of Operating Engineers, 1003 K Street, Northwest, Washington 1, D. C.

"Dear Sir and Brother:

"The truly incredible situation in the construction of the Pennsylvania Turnpike at Lawn and Carlisle, Pennsylvania, could not exist without your approval.

"Accepting your written Directive of July 5, 1949, addressed to John J. McDonald, Third General Vice-President, our Local Union has invested thousands of dollars in an organizational campaign in connection with the construction of the Turnpike. Now we can only report to our membership that as a result of observing your Directive, our money has been squandered.

"The situation is without parallel in the annals of [187] labor unions. Our organizational campaign has failed because members of our sister Local, 66, out of Pittsburgh, are crossing our picket lines as strikebreakers, employed by a contractor who allegedly has a national agreement with you, and who evidently is quite confident that you wouldn't attempt to

have him observe any contractual commitment to our General Office.

"The members of Local 66 who are serving as strikebreakers have refused to clear into our Local, although they are working in our territory, and quite obviously have the assurance of someone that the International Constitution will not be enforced.

"You have ignored previous communications, but as the President of Local 542, I demand that our membership be informed where you stand in this scandalous waste of our funds.

"Fraternally yours,"

And it was signed by me.

Q. Will you explain the enclosures, Mr. Underwood, please. A. The first enclosure is submitted by Charles Denoncour, who was an agent participating in the organizing. It is dated September 13, 1949, and it contains a list of operating engineers employed by the various contractors working on the Turnpike, and opposite each name it gives their affiliation, the Local with which they are affiliated.

Q. Does it have the names of the men who crossed the [188] picket line and the Locals with which they were affiliated? A. Yes, sir.

Q. Will you give us the Local that is involved, please. A. Well, for the most part they were Local 66.

* * * * * * * *

[190] Q. Let me ask you, this enclosure which has also been marked P-16, was that brought to the attention of Mr. McDonald or Mr. Maloney? A. It was brought to the attention of Mr. McDonald, yes, sir, who in turn reported it to Mr. Maloney.

MR. FREEDMAN: May I mark this the next exhibit, 17, instead of 16.

(Carbon copy of list headed "Charles Denoncour —September 13, 1949" was marked Exhibit P-17 for identification.)

By THE COURT:

Q. Mr. Underwood, your last statement was that it was brought to the attention of Mr. McDonald, who brought it to the attention of Mr. Maloney. On what basis do you make your last statement?

MR. FREEDMAN: I think he said he did not bring it to the attention of Mr. Maloney but he did—

THE COURT: Mr. Underwood said very specifically that he personally brought it to the attention of Mr. McDonald.

MR. FREEDMAN: Yes, sir.

THE COURT: And he added "who brought it [191] to the attention of Mr. Maloney."

MR. FREEDMAN: Oh, oh, I beg your pardon.

THE COURT: That was his exact statement.

MR. FREEDMAN: I apologize.

By THE COURT:

Q. Did I quote you accurately? A. Absolutely right, yes, sir.

Q. All right, absolutely right. Now, on what basis do you make that last statement? A. Well, I saw it in the reports from Mr. McDonald to Mr. Maloney that were produced during the depositions, and at the time Mr. McDonald, of course, when making his reports told me that he was reporting the situation.

Q. Mr. McDonald told you he reported to the national organization on the subject, is that it? A. Yes, sir.

* * * * * * * *

[193] MR. FREEDMAN: P-19 is a document dated September 26, 1949, apparently a report, showing the names of individuals who crossed the picket line and those who respected it. This report was obtained from Mr. Maloney's files in the course of discovery.

By MR. FREEDMAN:

Q. I show you this report, Mr. Underwood, and ask you whether you saw that before? A. Yes, sir, I have seen it.

Q. Does that agree with your recollection? I mean, does the information contained on there agree with the information you had concerning the project? [194] A. Yes, sir.

(Photostatic copy of telegram, undated, to William E. Maloney from Arthur D. Hill, Jr., was marked Exhibit P-20 for identification.)

By MR. FREEDMAN:

Q. Mr. Underwood, I show you Plaintiff's Exhibit 20, which is a telegram from Arthur D. Hill to Mr. Maloney concerning the Turnpike job and a contractor named Max Harrison. I ask you whether you saw this telegram before?

MR. O'BRIEN: That is an undated contract, is it not?

MR. FREEDMAN: Not a contract, but a telegram.

MR. O'BRIEN: A telegram.

MR. FREEDMAN: It is undated.

By MR. FREEDMAN:

Q. When I say "before," I mean before this was produced by Mr. Maloney's attorneys in connection with the discovery proceedings. A. The first time I saw it was when it was produced from the records of Mr. Maloney.

Q. Did you know at the time of the organizational [195] campaign on the Turnpike that such a telegram had ever been sent? A. No, sir.

Q. Will you read that telegram, please?

MR. O'BRIEN: Objected to.

THE COURT: Let me see it. Let me see all exhibits after 17.

(The same were handed to the Court.)

THE COURT: What is the question? Read it, Mr. Harris.

(The pending question was repeated by the reporter.)

THE COURT: Objection overruled.

A. This is a telegram, undated, addressed to William E. Maloney, Route 1, Box 48, Phone 1550, Arlington Heights, Illinois.

"Max Harrison telephoned this morning extremely anxious to talk to you personally about Pennsylvania Turnpike job will meet you anywhere you specify I told him I would communicate this message to you and then relay your answer to him tomorrow am wiring in case this changes your instructions given Tuesday.

[196] "Arthur D. Hill, Jr.
"1042AM."

By THE COURT:

Q. Who is Arthur D. Hill, Jr., do you know? A. He was assistant to Mr. Maloney.

THE COURT: All right.

MR. FREEDMAN: Will you mark this, please.

(Photostatic copy of telegram dated October 11, 1949, to William E. Maloney from Arthur D. Hill, Jr., was marked Exhibit P-21 for identification.)

MR. FREEDMAN: P-21 is a telegram from Arthur D. Hill to Mr. Maloney dated October 11, 1949, which reads exactly the same as the preceding telegram, only this one is dated.

MR. O'BRIEN: What is that date, Mr. Freedman?

MR. FREEDMAN: October 11, 1949.

MR. O'BRIEN: Thank you.

(Photostatic copy of telegram dated October 13, 1949, to Max Harrison from Arthur D. Hill, Jr., was marked Exhibit J-22 for identification.)

By MR. FREEDMAN:

Q. Mr. Underwood, did you ever see this telegram before it was produced from the files of the defendant here? |197| A. No, sir.

Q. Were you ever given any information about it? A. No, sir.

Q. Will you read it to the Court, please?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. It is a telegram dated October 13, 1949, directed to Max Harrison, Pittsburgh, Pennsylvania.

"Hunter Wharton empowered to deal finally for engineers in regard to Pennsylvania Turnpike dispute.

"Arthur D. Hill, Jr.,
"For William E. Maloney."

By MR. FREEDMAN:

Q. Mr. Underwood, who did deal for the engineers at that time? A. We were representing the engineers.

Q. Did you write a contract? A. Yes, sir.

Q. At that time did Mr. Wharton become assistant to Mr. Maloney also, or can you place the time when he did become such an assistant? A. I think it was shortly after he became assistant. I am not sure of the date.

|198| Q. But you wrote the contract with the Turnpike people? A. Yes—no, I can't say that I wrote the contract, no. I am mistaken about that.

Mr. Wharton had dictated the contract and had called me at my home. He had met with them in Washington, the Harrison Company and other Turnpike contractors.

He called me at my home about midnight—I think it was about October 20, 1949—and told me that he was going to enter into an agreement on behalf of Local 542 and had prepared it at a rate of $2.05 an hour for operating engineers. I told him that under no circumstances would we permit him to bargain for the engineers or enter into a contract for them for Local 542.

After some discussion on the telephone he said, "You better come to Washington then." And he said, "Mr. Maloney's already O.K.'d it."

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. (Continuing) So I said, "Well, nevertheless, the membership of the union won't accept a contract unless their own officers and representatives negotiate it."

[199] So I went to Washington, got there the following morning—I left that night—and met them in a hotel. There were several of the contractors' representatives present, and they said they had already discussed this thing previously with Mr. Wharton and that they had agreed upon a rate for our operators in this territory of $2.05 an hour.

Well, discussions took place throughout the day and in every instance Mr. Wharton was demanding that I accept this $2.05, and finally, after discussing with the contractors, we got the rate up to $2.40 for engineers on the Turnpike. After that verbal agreement was reached we went back to the offices of the International Union, I believe, our International Union, where these agreements were drawn up. I am just not sure whether they were drawn up at the hotel or whether additional ones were drawn up at the office. Nevertheless, the agreements were drawn up. But they were signed by Mr. Wharton. He said at that time that Mr. Maloney had instructed him to sign these agreements. But we got this—

MR. O'BRIEN: That is objected to, sir, and I move it be stricken.

THE COURT: I will overrule it.

[200] MR. O'BRIEN: I take it, Your Honor, my general objection to this line of testimony still stands.

THE COURT: It does.

A. (Continuing) While we were in the International office Mr. Maloney came in, said he had just returned from

Chicago. When Mr. Wharton told him I insisted on $2.40 in the contracts, Mr. Maloney became very irritated and said that, "Well, you are never going to get it; you can't get that kind of money upstate."

And I said, "Well, we are going to try anyway." And that is what they agreed upon, the $2.40.

So I left shortly thereafter. However, Mr. Wharton signed those contracts with the various Turnpike contractors. Subsequently, however, we did get signed agreements with these contractors negotiated by the local union representatives.

By MR. FREEMAN:

Q. At what rate? A. At a higher rate. It was two dollars, I believe—$2.60 or $2.65 an hour, I believe at that time. I am not sure of the rate at that time, but I believe it was something like that.

[201] Now, Mr. Underwood, following your letter of September 28, which has been marked P-16, did you obtain cooperation from Mr. Maloney, or any better cooperation from Mr. Maloney in this organizing campaign?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. No, sir. We had received no cooperation from Mr. Maloney up until the time he called some of the Local Unions and asked them to remove their men from jobs of contractors who were working non-Union on the Turnpike.

Q. Now, after the contract was effected did you send a letter to Mr. Maloney giving him a report. A. I believe so. I don't recall.

(Letter dated November 25, 1949, from Underwood to Maloney, was marked Exhibit P-23 for identification.)

By MR. FREEDMAN:

Q. Mr. Underwood, I show you Plaintiffs' Exhibit 23 and I ask you to state whether you sent that letter to Mr. Maloney. A. Yes, sir, I did.

Q. Will you read that letter to the Court, please. [202] A. This is on the letterhead of the International Union of Operating Engineers, Local Union 542, in Philadelphia. It is dated November 25, 1949, addressed to Mr. William E. Maloney, General President, International Union of Operating Engineers, 1003 K Street, N.W., Washington 1, D. C.

"Dear Sir and Brother:

"The report you requested, during my visit to your office in connection with the turnpike extension dispute, has been delayed pending the outcome of our attempt to consummate an agreement covering 'Highway Construction' with the contractors directly involved in the recent work stoppage on the turnpike.

"As you know, the cooperation of other Local Unions of Operating Engineers, as directed by you, was chiefly responsible for the success of that first and highly important phase of our organizational campaign.

"Immediately following the signing of the 'Memorandum of Agreement' by the six (6) turnpike contractors, contracts were prepared and submitted to their representatives. Several discussions followed which resulted in complete agreement on the terms [203] and wage rates of a formal contract applicable to 'Highway Construction' performed within the twenty-five (25) eastern Pennsylvania Counties not presently under agreement. Copies of this contract have been sent to those employers for their signature and a copy has also been mailed to your office.

"A tremendous amount of attention had been focused on the recent turnpike dispute, and the intense interest of other upstate contractors, who for many years had operated on a non-union basis, has been evidenced by a request from a Contractors' Association in Harrisburg, Pa., to enter into negotiations with Local 542 for a contract covering the twenty-five counties previously referred to.

"This is highly significant in view of the fact that requests made by us, to these same employers during the past eighteen (18) months, to negotiate an agreement have been complete ignored.

"John McDonald and I attended a meeting on Monday, November 21, and another on Wednesday, November 23, both at Harrisburg, Pa., with this Association for the purpose of setting up the [204] necessary negotiating committees and to agree on methods of procedure. Actual negotiations are expected to begin on or about November 30, 1949.

"During our visit to Harrisburg on Wednesday, November 23, word was received that C. J. Langanfelter, of Baltimore, Md., is now ready to discuss a settlement of his differences with Local 542. As you may recall, this contractor is engaged in constructing two (2) sections of the turnpike and has been unusually adamant in his refusal to talk to us in spite of the fact that his projects have been picketed constantly by the engineers during the past three (3) weeks. Unfortunately, practically no cooperation or assistance has been received by us from other crafts involved, and union teamsters out of Reading, Pa., have continually crossed out picket lines with ready-mixed concrete and other materials consigned to C. J. Langanfelter. They have finally agreed to discontinue the practice but the fact remains that considerable harm has already been done and settlement of this dispute has been long and unnecessarily delayed by their actions.

[205] "Twelve (12) contracts with individual employers have been signed during the past three (3) weeks. These, of course, are in addition to the six (6) turnpike contractors and there are a number of indications that many others will come into the fold in the immediate future.

"Full scale operations are to begin immediately in Pennsylvania embracing a tremendous highway con-

struction program with a completion date tentatively set for 1953. In view of this we are not underestimating the importance of vigorously prosecuting a campaign to insure the application of Union wage rates and conditions to all of this work.

"The foregoing is intended to be a brief resume of local happenings relative to Highway Construction since my discussion with you. I shall be glad to furnish more detailed information if you so desire.

"I again take the opportunity to express my appreciation to you for the invaluable assistance rendered during the trying period experienced by us in connection with the recent turnpike dispute.

[206] "With kindest regard, I am

Fraternally yours,

Roy J. Underwood."

* * * * * * * *

[207] Q. Mr. Underwood, do you recall receiving a telegram from Mr. Hill acting for Mr. Maloney, regarding the crossing of picket lines, that is, the Building Trades Council picket line, on the Easton, Pennsylvania, bridge job? A. Yes, sir.

Q. Do you recall receiving this telegram to Roy J. Underwood, 121 North Broad Street, Philadelphia 7?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

[208] MR. O'BRIEN: Sir, I submit that the telegram should be produced if he did receive such a telegram, rather than reading it out of an unsigned letter and asking him if he received it.

MR. FREEDMAN: This was from your own file, so you certainly can't challenge its authenticity.

MR. O'BRIEN: I dispute whether it is from our own files or not, at the present state of the record, because it has a plaintiff's exhibit number on it, too. It was put on there in depositions.

THE COURT: Your objection is overruled. Proceed.

By MR. FREEDMAN:

Q. I quote the telegram:

"If picket of Building Trades Council is again placed on Easton, Pennsylvania, Bridge job you are hereby directed to disregard the picket and keep engineers working in absence of specific orders to contrary from the General Office."

Signed Arthur D. Hill for William E. Maloney, with a carbon copy to O. Wm. Blaier.

Do you recall receiving that? A. Yes, sir.

[209] What happened in that case? A. The president of the Building Trades Council—that was Bethlehem, I believe, or Allentown—was a man named John Wilhelm. He was also a representative of the carpenters organization. Mr. Blaier was an International vice-president, and he was advocating an agreement which was unacceptable to the Building Trades Council and the carpenters organization. They therefore went on strike against the contractor on the bridge job, who was attempting to work under the agreement advocated by the International Union and Mr. Blaier. We respected their picket lines, and as a result Mr. Blaier interceded with our International, and I received that telegram as a result, to cross their picket lines.

MR. FREEDMAN: I will just leave it as is, sir, and when I make my offer of all the exhibits, I can then offer that one with the appropriate comment.

By MR. FREEDMAN:

Q. Now, Mr. Underwood, I had started to ask you before, when you assumed office immediately after your election, what the contractual relationship was, whether you had any contracts in effect with the contractors at that time. A. Yes, sir. There was a contract in effect with the [210] Philadelphia Contractors Associations.

Q. And when did it expire? A. It expired April 30. It was just a month.

Q. Of what year? A. Of 1948, just a month after we went into office.

Q. What was done to effect a new contract at that time? A. Well, proposals were presented to them which had been prepared by the International Union, by Mr. McDonald representing the International Union, and those proposals, of course, were immediately rejected by the Contractors Associations.

(Document, entitled "New Contract Demands Made by International Union for a New Agreement Effective May 1, 1948, to April 30, 1949," was marked Exhibit P-25 for identification.)

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-25 and I ask you whether those are the International demands that you had reference to in your last answer? A. Yes, sir, they are.

Q. Now, will you please proceed with your answer to the previous question. [211] A. At our first meetings with the representatives of the Contractors Associations, of course, they rejected these demands completely, but the questions arose, of course, as to what was permissible to bargain for under the Taft-Hartley regulations. This was the first contract the Local Union, of course, was going to negotiate under the Taft-Hartley Act.

The result was that nearly everything was objected to as either featherbedding or for other reasons, so that they objected to the guaranteed weekly reporting time, and so forth, as not permissible, they were not required to bargain for it, so it wound up with an extension of the agreement for a period of about, oh, forty days, and then we went into arbitration of a new agreement.

Q. Let me ask you this: Was there a Local Negotiating Committee at that time? A. Yes, sir, there was.

Q. How was it selected? A. It was selected by recommendation of the Executive Board. The Local Union, they selected them, and, of course, they were business agents at the time.

Q. Now, did they adopt the demands of the International [212] Union? A. The contractors, you mean?

Q. No, I mean the proposals made by the International Union. A. Oh, yes, yes, they adopted them.

Q. What happened after that? Incidentally, were the demands presented to the membership? A. No, sir, I believe not.

Q. Go ahead, tell us what happened. A. We had only a short time, I mean, to bargain. There were only thirty days before the expiration date, so we immediately set up these sessions, but as soon as the contractors saw the demands, of course, they said they just wouldn't negotiate for these demands, on the basis of these demands, so they were taken up to the meeting of the Executive Board, where they decided then that we would have to draw up such demands as we thought we could get into the contract and get as much improvements as we thought we could get in the then existing contract.

That was discussed over a period of time. Meetings were held, membership meetings, and this was brought to the attention of the membership. There wasn't actually any formal procedure. As soon as we went into [213] office we were faced with the shortage of time in drawing up new demands or setting up a committee for that purpose. When these demands were rejected by the employers, we simply took the old contract, and then, on recommendation of the Executive Board, tried to make certain changes, effect certain changes in it and an increase in the wage rates.

I think at that particular time their chief interest was in the wage increase. That was the primary demand that the Local Union subsequently made on the employers. However, I say, it went into arbitration. They refused to pay the wage increase. It went into arbitration, and that arbitration lasted up until March, I believe, of 1949. It started in July, 1948.

Q. Who was the arbitrator? A. Professor Nathan

P. Feinsinger, Professor of Law at the University of Wisconsin.

Q. And who participated in those proceedings? A. Well, the committee for the Union, Mr. Kelly, our attorney, representing the Union, the attorneys for the Contractors Associations, and their representatives.

[214] Q. And who for the employers? A. Mr. Halloran, Mr. Buckley, Mr. Lauter and at various times there would be another one in. I believe Mr. Glasgow was in on occasion.

Q. Were those proceedings reported? A. Yes, sir, they were.

Q. In the course of those proceedings was there anything said by the contractors at all regarding the previous enforcement of the contracts?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. Mr. Underwood, was the question of enforcement of the prior contract an issue in the discussion in the arbitration?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. Mr. Underwood, was it one of the positions, one of the positions taken up by the employers at that time, that they—well, I don't want to ask a leading question. Withdraw that, please.

Mr. Underwood, I show you—

THE COURT: What is that, the record of [215] the arbitration?

MR. FREEDMAN: Yes, Your Honor.

THE COURT: Do you want to mark it as an exhibit?

MR. FREEDMAN: Yes.

THE COURT: All right, have it marked.

MR. O'BRIEN: I should like to have time to examine these, sir.

MR. FREEDMAN: You have copies.

MR. WOLFE: We never saw it.

MR. O'BRIEN: I never saw it before in my life.

MR. FREEDMAN: You have a copy.

MR. WOLFE: Where did I get it?

MR. FREEDMAN: It is in your office. It is in the Local office.

MR. O'BRIEN: I can say that I never saw those documents.

MR. WOLFE: Never even heard of them before. Let's see what it is.

MR. FREEDMAN: Take a look. It is marked. Here, these were produced. There is your exhibit number taken in the deposition.

MR. WOLFE: Well, there are doubtless [216] thousands of papers in the Local office that I never saw before. I never saw these.

MR. FREEDMAN: These were produced for you. Here is your own mark (indicating).

THE COURT: Go ahead, have them marked.

MR. WOLFE: I still have never seen them. This is the first time I have seen them.

MR. FREEDMAN: Sir, I don't understand that. Here is Mr. Wolfe's own mark.

THE COURT: Let's have no discussion.

MR. FREEDMAN: Here are five volumes. Will you please mark those.

(Report of arbitration proceedings July 30-31, 1948, was marked Exhibit P-26-A for identification.)

(Report of arbitration proceedings August 26-27, 1948, was marked Exhibit P-26-B for identification.)

(Report of arbitration proceedings September 9, 1948, was marked Exhibit P-26-C for identification.)

(Report of arbitration proceedings January 17, 1949, was marked Exhibit P-26-D for identification.)

(Report of arbitration proceedings January 18, 1949, was marked Exhibit P-26-E for identification.)

MR. FREEDMAN: I wanted to look at this to see whether this is testimony or—oh, the sixth volume [217] I have here is the brief of the employers and is really not a part of the proceedings, so that I don't think I will offer that, sir.

THE COURT: You can't offer anything right now.

This is the record—

MR. FREEDMAN: Yes, Your Honor. I am just submitting—

THE COURT:—of arbitration for the 1948-'49 contract.

MR. FREEDMAN: Yes, sir.

I was in error, sir, when I said six. The sixth document that I have here is a brief for the employers that I have in my files.

THE COURT: Now, what do you want to do with those now that you have them marked?

MR. FREEDMAN: Well, I would like to ask Mr. Underwood certain questions about the position taken by the employers.

THE COURT: Do you object to it?

MR. O'BRIEN: Yes, sir, I do.

THE COURT: I will sustain the objection.

MR. FREEDMAN: Regarding contract—

THE COURT: I am not going to reopen contract [218] negotiations of any particular year until it becomes important. I will rule that right now.

MR. FREEDMAN: All right, sir. The only point I wanted to make, sir, was—

THE COURT: The contractors are not parties to this litigation.

MR. FREEDMAN: Well, I had not intended, sir, to—well, I will withdraw it at this time.

By MR. FREEDMAN:

Q. Did Prof. Feinsinger work out a contract for the parties at that time? A. Yes, sir, he did.

Q. And was a contract signed by the Local with the employers? A. Yes, sir.

Q. When was it signed? A. It was signed October 7, 1949.

Q. Now, from the time you assumed office, Mr. Underwood, was the contract equally enforced against all employers?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Yes, sir.

By MR. FREEDMAN:

Q. Were there any attempts made by any of the contractors [219] to evade enforcement as to particular provisions?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. Mr. Underwood, how did the affairs of the Local work out under that new agreement?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Well, we worked under the agreement of October 7, 1949. We had difficulties, of course, in enforcement, but we continued until a new agreement was arrived at to be effective May 1, 1950.

By MR. FREEDMAN:

Q. Were there any improvements effected in that agreement of Prof. Feinsinger's?

MR. O'BRIEN: Objected to.

MR. FREEDMAN: Over previous conditions.

THE COURT: Wait. I don't consider Prof. Feinsinger's contract at all.

MR. FREEDMAN: You are right, sir. I will withdraw it and rephrase it.

THE COURT: If you have contract dates I think it would help the Court, if you will refer to the contracts by dates.

[220] By MR. FREEDMAN:

Q. Mr. Underwood, can you give us the effective date of the contract which resulted from the arbitration presided over by Prof. Feinsinger?

THE COURT: The date was October 17. It may have been effective back to May 1, was it?

THE WITNESS: It was October 7, sir.

By THE COURT:

Q. October 7? A. Yes.

Q. Made retroactive to May 1? A. It was actually retroactive to May 1 of 1948, as to such provisions that could be retroactive, sir.

Q. So the date was October 7, 1948, for the contract which would expire April 30, 1949, is that right? A. It was October 7, 1949, sir, before a contract was signed.

If you want me to explain how that was, it is puzzling.

Q. Sure, go ahead. A. Well, the arbitration began in July of 1948, which was supposed to be for a contract to become effective retroactively from May 1, 1948, to April 30, 1949. However, the final award wasn't issued in the arbitration until about [221] March of 1949. Then there was constant discussion. Several meetings were held trying to decide what was meant by the language of the award. Consequently, no agreement was arrived at on the provisions to be contained in the agreement until October 7, 1949.

Q. Until October 7, 1949. Now I understand. A. Yes, sir, and then that contract—

Q. It was actually in arbitration, then, to the completion of arbitration, from May or June of 1948 to October 7, 1949—I mean, for all practical purposes. A. Yes, sir, for all practical purposes, that is right.

By MR. FREEDMAN:

Q. Now, were you assisted—when I say "you," I mean was the Local Union assisted—by Mr. McDonald in those proceedings, that is, in the arbitration proceedings. A. Yes, they were.

Q. Did he advise and endorse the position of the Local Union from time to time? A. Yes, sir.

Q. Do you know whether he kept the general office, including the general president, advised of the developments, current developments? A. Yes, sir.

Q. Mr. Underwood, during the entire period that Mr. [222] McDonald was in the area are you able to state whether or not Mr. McDonald sent regular reports in to Mr. Maloney? A. Yes, sir.

Q. How frequently? A. It was a regular procedure when he was in town to send a report each week, I mean, that was common knowledge around the office, and I used to be with him many times when he would come into the office. I saw him daily, and he would come into the office and toward the end of the week he would be working on his report for the week. He asked me if anything recent had developed in getting the report ready. I saw him give it to my secretary to type up on many occasions, and they were mailed out.

Q. At the end of the one-year period, Mr. Underwood, was there another election conducted for the officers? A. Yes, sir.

Q. You were again elected to office for another period of one year? A. Yes, sir.

Q. That was in 1950. What month? A. That was in 1949.

Q. '49. What month? A. June of 1949. The election was held for a one-year period.

[223] Q. Was there another election at the end of that period? A. Yes, sir.

Q. Were you re-elected the third time? A. Yes, sir.

Q. For what period of time were you re-elected then? A. For a period of four years.

Q. Were there any steps taken to change the period from one to four years? A. Yes, sir.

Q. To change that as the period of the office? A. Yes, sir.

Q. Will you tell us what those steps were, please? A. Well, it was discussed at two or three membership meetings, about changing the period. First it was suggested that it be four years. I know it was at my own request that I asked them to reduce it to two years. And then Mr. McDonald got up at a meeting and spoke in favor of a four-year term and outlined how the Local Union progressed, and as a result of that the membership ultimately decided on a four-year term.

Q. Did Mr. McDonald assign any reason for his suggestion that it be four years?

MR. O'BRIEN: Objected to.

THE COURT: I think the ultimate fact has [224] been put on the record and I am going to sustain the objection to further questioning.

By MR. FREEDMAN:

Q. Do you know whether Mr. McDonald reported all the results of all the elections to the general office? A. Yes, sir, he did.

By THE COURT:

Q. Didn't you report them as well? A. I don't think so, sir. I think that the—

Q. You wouldn't have your recording secretary report formally from your organization to the national organization who the officers were for the current year? Doesn't

that strike you as not being quite cricket? A. Oh, yes, sir, there was a report sent in, sir, of the new officers. I thought you meant the details on the elections, and so forth.

Q. I would be very much surprised if you hadn't made the report yourself. A. Yes, sir.

THE COURT: I don't see that it is important what Mr. McDonald did, or how he would know what he did unless he read his report.

By MR. FREEDMAN:

Q. After that 1949 period was there another period of [225] negotiations with the employers? A. Yes, sir.

Q. That was prior to May 1, 1950, was it? A. Yes, sir.

Q. Will you tell us what occurred there in connection with—first of all, was there a negotiation committee set up for the Union? A. There was a negotiating committee set up. However, it didn't function. Mr. Kelly, our attorney, called me and said that he had received a call from Mr. Halloran and they had asked that the committee not meet with the—

MR. O'BRIEN: This testimony is objected to, Your Honor, as heresay. He is relating now conversation between Mr. Kelly and Mr. Halloran.

THE COURT: Well, we can't have actions judged in a vacuum. I will overrule the objection.

By MR. FREEDMAN:

Q. Were these conversations conducted in the general course of the business, Mr. Underwood, of the Union, or reported to you in connection with the general business of the Union? A. Yes, sir.

Q. Go ahead, please. A. Mr. Halloran had requested that he and Mr. Kelly [226] discuss the terms of the new agreement after first ascertaining from the Union what they wanted and what they expected, and Mr. Halloran ascertaining from the employers what they were willing to give.

The reason given to me was that they thought that there would be less bickering if this would be done. This was taken up with the Executive Board and it was agreed that it didn't make too much difference to them as long as we arrived at what the membership wanted, as to how it was arrived at. So that Mr. Kelly carried on these discussions with Mr. Halloran.

Prior to these discussions starting, however, Mr. Kelly came over at our invitation before the Executive Board and learned from them what they had in mind and what they wanted. He then began his discussions with Mr. Halloran for the associations. These discussions continued and we received reports from Mr. Kelly every week or ten days, I would say, as to how they were progressing, and finally, in April of 1950, I believe about the 15th or 16th of April, I received word that the employers had agreed to a 10-cent welfare program. The welfare program was to be in existence for a period of two years from May 1, 1950, and the collective bargaining agreement would continue as it had in the past for an additional period of [227] one year.

I called a meeting of the membership, a special meeting of the membership, to consider this proposal of the employers. The day of the meeting I believe I called our attorney again and had him repeat to me the exact proposal. I then presented that to the membership at the meeting that night or the following night.

The membership voted to accept it and the contractors were notified of that. From that point on, of course, we continued to work under the one-year agreement that the membership had approved and concentrated on setting up the welfare program and getting the trust agreement signed and into effect.

* * * * * * * *

[228] Q. Mr. Underwood, I neglected to ask you concerning the organizational campaign. Did the International Union contribute any moneys toward that campaign? A. No, sir.

Q. Did you make any request for moneys? A. Yes, sir.

Q. Was it denied A. Yes, sir.

Q. How much did it cost the Local Union? A. $50,000 or slightly more perhaps.

Q. Now, Mr. Underwood, you were getting into this 1950 contract, but before we go any further, will you please tell us what the setup of the contractors was. In other words, in the Philadelphia area you had certain associations, did you not? A. Yes, sir.

MR. FREEDMAN: I am not sure whether we covered any part of this before, and I trust Your Honor [229] will indulge me if we had any part of it before, describing the jurisdictions in which the various contractors operated. I will be very brief now, sir.

By MR. FREEDMAN:

Q. Will you tell us what contractors operated in and around Philadelphia and what contractors you had contractual relations with elsewhere within your jurisdiction. A. Well, the contractor associations, the three contractor associations, operated in the Philadelphia area.

Q. What contractor associations were they? A. The General Building Contractors Association, the Contractors Association of Philadelphia, and the Pennsylvania Excavators Association.

Q. Did you have separate contracts with each of those three? A. No, sir, the same contract applied to the three.

Q. Applied to all three? A. Yes, sir.

Q. About how many contractors in that group of associations—

If I may, sir, hereafter whenever I use the term Philadelphia associations," I would like it to be known that it refers to all three in the Philadelphia area.

What jurisdiction geographically did they [230] cover?

A. Philadelphia and the four surrounding counties.

Q. How many contractors were there in those associations who engaged your members? A. In 1952 there were about 98 contractors who employed operating engineers.

Q. And how many of your men did they generally engage or employ? A. It varied between 350 and 400, I would say.

Q. What was your total membership at that time? A. Between 3800 and 4,000. I don't know the exact figures.

Q. Now, Mr. Underwood, would you tell us what other contracts you had within your jurisdiction other than that with the Philadelphia associations. A. May I ask on what date?

Q. Well, starting from the time you took office, and tell us what contracts you were able to effect. A. Well, we effected contracts with the Lehigh Valley Contractors Association, with the Scranton Builders Exchange.

Q. When you give us an association, will you please try to idenitfy it both with respect to area and membership, as much as you can anyway. [231] A. Well, the Lehigh Valley Contractors Association signed agreements for four counties adjacent to the Greater Philadelphia area. That was Lehigh County, Northampton County, Berks County, and Lancaster County. Their membership was approximately 98 contractors, and we effected agreements also with the Scranton Builders Exchange and the Wilkes-Barre Builders Exchange. That covered eleven counties in upstate Pennsylvania. We don't know the exact number of their membership. We were never able to obtain complete lists from them.

We also had contracts with the Harrisburg Employers Association. There there were supposed to have been, I believe, 68 contractors in their association. They covered 14 counties in the eastern half of Pennsylvania.

We also had contracts with the Wharf and Dockbuilders Association in the Philadelphia area. They covered the eastern half of Pennsylvania and Delaware.

We also effected agreements with the Independent Contractors Negotiating Committee, of which Mr. McCloskey was chairman, Mr. James McCloskey. Other members of the committee were Mr. Earl of the Wharf and Dockbuilders Association, and Mr. Lombardi of Lombardi & Sons, the contractors.

Those are the ones that occur to me now.

[232] Q. What about Delaware? A. Oh, yes, with the allied building construction industries covering the entire State of Delaware. We also had agreements with them. They had a membership of approximately 60, I would say.

Q. Now, how many of your people were employed by these contractors other than the Philadelphia Association of Contractors? A. The total would be about 3400 or 3500 members.

Q. Now, Mr. Underwood, getting back to the point that we had under discussion before lunch, you were I think telling us about the negotiations that Mr. Kelly was carrying on with Mr. Halloran. Would you continue from where you left off, please. A. I am not sure just where I left off, but I will try.

Q. I think you had said that Mr. Halloran and Mr. Kelly were in negotiations regarding a 10-cent-an-hour welfare program. A. Yes, sir.

Well, we were notified that they had come to an agreement, that is, the contractors associations had agreed to a 10-cent welfare program, and I believe I had already testified that it had been submitted to the membership and they had approved it.

[233] Q. Now, before you go any further, was Mr. Kelly authorized to write an agreement for the Union?

MR. O'BRIEN: Objected to.

A. No, sir.

THE COURT: Has that or has it not been a matter of legal determination in another action between the contractors association and this Union?

MR. O'BRIEN: By the Supreme Court of Pennsylvania, yes, sir.

MR. FREEDMAN: I don't know whether that was the point at all, sir. The Pennsylvania Supreme Court held that they were bound by it, but whether he was authorized to write it is something else. I don't think that any court has said so far that he was authorized to write that agreement.

MR. O'BRIEN: Well, if he was not an authorized agent, I doubt if the Supreme Court of Pennsylvania would say it was a legal, binding agreement.

THE COURT: I will sustain the objection for the moment, and I want to read the opinion in that case. Are there two opinions?

MR. FREEDMAN: There was one opinion in the Supreme Court, sir.

THE COURT: Any opinion in the lower court?

[234] MR. FREEDMAN: Yes, there was an opinion in the lower court, too, sir.

THE COURT: Has that been recorded?

MR. FREEDMAN: I don't know the citation of the lower court, sir, but I know that the Supreme Court opinion is reported. I don't think that they would be binding in this litigation. Certainly they wouldn't be res judicata in this litigation.

THE COURT: I am not talking about res judicata. I am just talking about, if a point was raised in any other suit and that point was passed on by the Supreme Court of Pennsylvania, I wouldn't permit any person to reopen that by a statement as to his idea of authority.

MR. FREEDMAN: Well, I did not intend, sir, to ask for any conclusions. What I wanted to do was to put in the facts which led to Mr. Kelly's negotiations with the contractors. There has never been any suggestion even by the contractors that he did in fact

obtain authority. I think that they contended that he had some implied authority. I think they also contended that there was, by some later action, but, in any event, I would ask leave—

THE COURT: You understand, of course, Mr. Freedman, that I had an action in front of me involving the pension fund.

[235] MR FREEDMAN: I remember it very well, sir.

THE COURT: So I am not entirely unfamiliar with the background of this matter.

MR. FREEDMAN: I had that in mind, sir.

THE COURT: And that was an element that was giving us some trouble at the time, and I happen to recall it, and that is why I bring it up now.

MR FREEDMAN: And I think that Mr. Kelly did testify before Your Honor at that time, and with Your Honor's permission, I would like to offer Mr. Kelly's testimony in the record.

THE COURT: Well, we will come to that later. I think at this point, however, I will sustain the objection.

MR. FREEDMAN: Very well, sir.

I was going to say that in lieu of calling Mr. Kelly again on the point, we could offer his testimony that he gave before Your Honor on that very point, and even before the Court of Common Pleas in Philadelphia. I would be willing to offer his testimony there as well.

THE COURT: Very well.

MR. FREEDMAN: I don't want to ask a question which is in violation of Your Honor's ruling or which is contrary to Your Honor's ruling. I was about to ask the question as to what was the extent of the authority [236] given to Mr. Kelly by the committee.

THE COURT: I would sustain an objection to that too.

MR. FREEDMAN: I just wanted to know whether Your Honor included that.

THE COURT: At this point the question of authority, which may have been legally settled—I don't know that it has been—we won't go into. There is plenty of time to bring in the testimony. I want to find out for myself if that point has been determined.

MR. FREEDMAN: Very well, sir.

By MR. FREEDMAN:

Q. Now, Mr. Underwood, as a result of Mr. Kelly's negotiations with Mr. Halloran, was there a proposal submitted to the membership? A. Yes, sir, there was.

Q. Do you recall what that proposal was? A. The proposal provided for a 10-cent-per-hour contribution by the employers into a welfare program for the membership to run for a period of two years from May 1, 1950. There was also an agreement to continue the collective bargaining agreement then in effect, to continue for one year from May 1, 1950.

Q. Do you recall the date of the meeting when the proposal [237] was submitted to the membership? A. It was April 27, I believe, of 1950.

(Copy of minutes of special meeting of International Union of Operating Engineers, Local 542, 542-A, and 542-B, held at Turners Hall, Broad Street and Columbia Avenue, Philadelphia, on Wednesday evening, April 26, 1950, was marked Exhibit P-27 for identification.)

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-27 and I ask you to state whether or not that is a correct copy of the minutes of that meeting, according to your recollection. A. Yes, sir, it is.

Q. Will you tell the Court what the period of the

collective bargaining agreement was, according to those minutes. A. The period of the collective bargaining agreement, according to the minutes, was for one year.

Q. What about the welfare agreement?

MR. O'BRIEN: Of course, this is objected to, if Your Honor please, not only on the ground of immateriality, but also that this is not the best evidence of anything that would be contained in the agreement.

THE COURT: We have to get along. I will overrule it.

[238] Don't you have a copy of the contract, Mr. Freedman?

MR. FREEDMAN: There was no written contract at that time. It was an oral contract.

THE COURT: All right.

MR. O'BRIEN: What is being attempted here, sir, is to do in this way what Your Honor said they couldn't do because this all referred back to the Supreme Court case. I think it is an attempt to circumvent—

THE COURT: He is talking about minutes that were drawn up. We are not talking about the legal effect.

MR. FREEDMAN: That is right.

THE COURT: What they put in their minutes has nothing to do with the consequences of whatever actions they took. All that he is asking now is about minutes which are not binding on anybody up to this point.

THE WITNESS: The minutes show that the welfare agreement was to extend for a period of two years.

[239] By MR. FREEDMAN:

Q. And the collective bargaining agreement was for one year? A. One year, that is correct.

Q. Is that the proposal that was submitted to the membership? A. Yes, sir.

Q. Was it approved by them? A. Yes, sir.

Q. Mr. Underwood, was it put in writing or was it an oral agreement? A. It was an oral agreement, the collective bargaining agreement, as had been the practice in the industry. And the welfare agreement, of course, was turned over to the—

MR. O'BRIEN: I can't hear you very well, Mr. Underwood.

A. I say the drawing up of the trust agreement to cover the welfare agreement was left in the hands of the attorneys for the contractors and the Union.

THE COURT: Just a minute, please. I want the last four question and answers read, Mr. Schuman.

(The proceedings were read by the reporter.)

By THE COURT:

Q. I thought I had heard correctly. Do you mean to [240] say that in whatever industry you covered—well, first let's discover what industry you meant. It is a practice in the industry. What industry are you talking about? A. In the construction industry, sir.

Q. In the construction industry. That would cover certainly at least that number of crafts that we talked about this morning? A. Yes, sir.

Q. All right. Do I understand, then, your testimony is that there were no written contracts in that industry covering bargaining agreements? A. Oh, no, sir. I meant that the submission of an agreement to the membership for approval was an oral agreement. That always had been to my knowledge.

Q. Well, I am glad that is straightened out, because I was rather shocked to hear that they had no written bargaining agreements. A. I'm sorry.

THE COURT: Your answer could readily be construed as that.

MR. FREEDMAN: I am glad Your Honor clarified that, sir. Thank you, sir.

THE WITNESS: Yes, sir.

[241] By MR. FREEDMAN:

Q. Who signed the trust agreement after it was drawn up by counsel, Mr. Underwood?

MR. O'BRIEN: Objected to.

THE COURT: Read the question back.

(The pending question was read by the reporter.)

THE COURT: I think we are going pretty far afield, but I will overrule the objection.

A. It was signed by representatives of the Union and representatives of the Contractor Associations.

By MR. FREEDMAN:

Q. Not the attorneys? A. No, it was not.

Q. Now, Mr. Underwood, did there come a time during the period of that contract that was voted on by the membership when a different term was averred by the contractors? A. Yes, sir.

Q. Will you tell us about that, when you first heard about it, when it first came to your attention.

THE COURT: Well, let me get something straight here now. I have to take one thing at a time. Too many things overwhelm me.

[242] By THE COURT:

Q. Was the collective bargaining agreement of which the trust agreement was a part, was that reduced to writing? A. Not until some months later, sir.

Q. Was it reduced to writing? A. Yes, sir, it was, sir.

Q. Who signed it? A. It was signed by Mr. Kelly, our attorney, and by Mr. Halloran of the Contractor Associations. However, it did not—

Q. On what date? A. On August 16, I believe, 1950.

THE COURT: Now, go on from there.

MR. FREEDMAN: Was Your Honor referring to the trust agreement?

THE COURT: No.

MR. FREEDMAN: Oh, to the collective bargaining agreement.

THE COURT: I am talking about the collective bargaining agreement.

A. (Continuing) However, it didn't reflect the understanding of the Union as to the collective bargaining [243] agreement.

By MR. FREEDMAN:

Q. When did that contractor agreement come to your attention, Mr. Underwood? A. It came to my attention in early October of 1950.

* * * * * * * *

[250] Q. What was done about it at that time? A. A letter of repudiation was written to Mr. Halloran, the chief representative of the Contractor Associations, pointing out that Mr. Kelly had not been authorized to enter into such an agreement.

* * * * * * * *

[252] Q. Mr. Underwood, I show you P-28 and ask you whether that is the letter that you had reference to. A. Yes, sir, this is the letter I sent to Mr. Halloran.

* * * * * * * *

Q. Mr. Underwood, did you get any response to your letter of repudiation from the contractors? A. No, sir.

* * * * * * * *

[255] MR. FREEDMAN: P-29 is a letter from Robert G. Kelly to Local 542, dated May 17, 1951, resigning as counsel for the Union.

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-29 and I ask you whether you received that letter from Mr. Kelly. A. Yes, sir.

Q. Will you read it to the Court, please.

MR. O'BRIEN: Objected to, sir.

THE COURT: What bearing does the fact that Mr. Kelly resigned have on this case?

MR. FREEDMAN: It does have a bearing on what he had done and the good faith of the union officials, whether they were discharging their duty.

THE COURT: I will overrule the objection. He may read it.

MR. O'BRIEN: If Your Honor please, it is the letter which Mr. Kelly wrote to the union regarding the subject matter of the Supreme Court case.

THE COURT: I would assume that it is. Recognizing that, I am still going to let him read it.

[256] THE WITNESS: This is a letter dated May 17, 1951, on the stationery of Robert G. Kelly, 1815 Packard Building, Philadelphia 2, and it is addressed to International Union of Operating Engineers, Local Unions 542, 542A, and 542B, City Center Building, 121 North Broad Street, Philadelphia, Pennsylvania.

"Gentlemen:

"It is with considerable regret that I submit my resignation as your counsel. However, I feel I have no alternative.

"It is through my error, though innocently made, that your current difficulties have arisen. When I signed the highly controversial extension agreement, I regarded it at the time as a mere formality, insisted upon by the employers before the welfare program could be gotten under way.

"I had no intention of giving the employers a contract other than that approved by you at your meeting on April 26, 1950. In defense of Mr. Underwood, I want you to know that he is no way responsible for what has occurred.

"It has been a privilege to represent your unions and your fine men.

[257] "Yours very truly,

"Robert G. Kelly."

By MR. FREEDMAN:

Q. Now, Mr. Underwood, the Court of Common Pleas handed down an injunction in May of 1951, did it not? A. Yes, sir.

Q. And that continued until May 1 of 1952? A. Yes, sir.

Q. And during that period did you effect any contracts with the contractors other than the Philadelphia Association contractors? A. Yes, sir.

Q. Will you tell us when and for what terms, please, so far as money is concerned?

MR. O'BRIEN: That is objected to, sir. The contract speaks for itself and is the best evidence of what the terms of the contract were.

THE COURT: I think that is so.

MR. FREEDMAN: If you are going to have your exhibits in court tomorrow, I would like you to produce those contracts from your files, because that is where they are.

MR. O'BRIEN: I don't know that that is so. [258] I don't know that it is not so, Mr. Freedman. I have to check the files.

By MR. FREEDMAN:

Q. Mr. Underwood, where are those contracts? A. In the local union office.

Q. Is that where you left them? A. Yes, sir.

[259] Q. Will you tell us the circumstances under which those agreements were effected and with whom they were effected, please. A. The independent contractors

had agreed to an increase of 25 cents per hour prior to April 30, 1951. The independent employers at that time employed about 70 to 75 per cent of our members in the Philadelphia area. That increase was put into effect, together with certain improvements in the conditions in the working agreement. That was in 1951. However, as a result of the injunction, the employees continued to work—that is, employees of the three Philadelphia contractors' associations continued to work—for the period from May 1, 1951, to April 30, 1952, at 25 cents per hour less than the independent [260] agreements provided.

Q. Do I understand correctly, then, that the Philadelphia association contractors had the engineers work for them under the injunction for 25 cents per hour less than what you people were working for for the other contractors? A. Yes, sir.

Q. And that continued for a period of one year? A. Yes, sir.

Q. Now, at the end of that year, or prior to the termination of that independent agreement, were any negotiations instituted or conducted in order to effect a new agreement with the independents? A. Yes, sir, there were.

Q. Were negotiations also instituted to attempt to effect an agreement with the Philadelphia association contractors before the termination of the injunction? A. Yes, sir.

Q. Which negotiation started first? A. The negotiations with the contractors association started first.

Q. Well, will you tell us what was done, please. A. Well, they were notified in February, I believe, of 1952, of the desire of the union to effect certain [261] changes in their contract and to start negotiations. Meetings were subsequently held with the employers, and at the first meeting I believe they submitted their demands on the union and the union submitted their demands, the union's demands. Their demands consisted of 44 provisions that they wanted in the new contract, and also they insisted that the 1949 agreement be the one to provide a

basis for the discussions, and they refused, of course, to negotiate on the basis of the demands submitted by the union, so very little progress was made with the contractor associations. In fact, I would say no progress was made. They had demanded elimination of the welfare fund, among several other conditions that we had in our agreements with the independents. We therefore started negotiations with the contractors' independent negotiating committee for a contract.

Q. Did you have a negotiating committee at that time? A. Yes, sir.

Q. Who was it? Whom did it consist of? A. It consisted of the business agents, Mr. Leone, Mr. Pantaleo. Mr. Dawson, I believe, attended some of the negotiating sessions, possibly Mr. Smith. They varied from time to time depending on what agents were available.

[262] Q. Was a set of demands drafted? A. Yes, sir.

Q. By whom? A. They were drafted by the Executive Board and as a result of suggestions made by the members over a period of time at the meetings. After approval by the Executive Board they were then submitted to the membership for approval before submission to the contractors.

Q. Are you talking now about the proposal that was submitted to the independent contractors? A. No, sir, I am talking about the demands made on the contractor associations.

Q. I see. Go ahead. A. When the contractor associations took the position they wouldn't renew the welfare fund, or continue the welfare fund, and wouldn't discuss with the union the conditions of a new contract on the basis of the union's demands which had been approved by the membership, then we started negotiations with the independent committee, the contractors. As a result of those negotiations a new—

Q. Before you get into that: You say with an independent contractors committee. Will you tell us who that

committee [263] was, whom it consisted of. A. It consisted of Mr. James McCloskey, of McCloskey & Company, Mr. Thomas Earl, of the Wharf and Dockbuilders Association.

Q. Was he an official in that Association? A. Yes, he was.

And Mr. Lombardi of Lombardi & Sons, contractor.

Q. Did you and your committee negotiate with that committee? A. Yes, sir.

Q. And did you effect an agreement? A. Yes, sir, we did.

Q. What did that agreement provide? A. It provided for—

MR. O'BRIEN: That is objected to, sir. We are going to attempt to get the original document in here tomorrow morning. It will be the best evidence of what it provided.

THE COURT: Very well.

By MR. FREEDMAN:

Q. Well, just limiting yourself to any increase in wages, was there any increase in wages, wage rates?

[264] MR. O'BRIEN: That is still within the—

MR. FREEDMAN: There can't possibly be any doubt about the increase in wages.

THE COURT: I will overrule the objection to that question.

A. Wages were increased, yes, an additional 15 cents, effective May 1, 1952.

By MR. FREEDMAN:

Q. Was that put into effect? A. Yes, sir.

Q. And did you work out any agreement with the Philadelphia association contractors by that time? A. No, sir.

Q. So that as of May 1, 1952, your ageement with the independent employers called for 40 cents per hour

more than what the employers had been paying up to May 1, 1952; am I correct in that? A. Yes, sir.

By THE COURT:

Q. Do I understand—maybe this is none of my business at this point—that you were making identical demands on the independents and on the Philadelphia association; is that correct?

[265] By MR. FREEDMAN:

Q. At that time, Mr. Underwood. A. No, sir.

Q. Were the demands the same? A. No, sir, they were not the same. However, the contracts that had been negotiated with the independents had a clause providing that anything in addition to the terms provided or the wages provided in the independent agreements would accrue to the union if they were gotten from the associations.

* * * * * * * *

[268] Q. Mr. Underwood, I show you P-32 and I ask you to read that to the Court, please.

MR. O'BRIEN: That is objected to, sir.

THE COURT: I will overrule the objection. That is that '52 letter you are talking about now, or '51?

By MR. FREEDMAN:

Q. What is the date of that? A. January 21, 1952.

THE COURT: All right, you may read it.

A. This is a letter addressed to Contractors Association of Philadelphia, Commercial Trust Building, Philadelphia, Pennsylvania, and is dated January 21, 1952.

"Gentleman:

"You have alleged that there is in existence an agreement binding our unions and your associations for the period from May 1, 1950 to April 30, 1952. [269] We repudiated that agreement as soon as it came to our attention and the matter is presently in litigation.

"We are still convinced that the alleged agreement is illegal because it was entered into and executed absolutely without the knowledge or authority of the unions or any of their officials, and it was effectively repudiated as soon as its existence was discovered. However, we consider it appropriate at this time, purely as precautionary measure, inasmuch as the matter has not yet been formally judicially determined, to advise you of our intention to terminate the alleged agreement above referred to, as of April 30, 1952. This notice is without prejudice and is not to be construed as any admission upon our part of the validity of the said alleged agreement.

"You are advised that all collective bargaining agreements in effect, if any, shall be terminated on April 30, 1952.

"We shall be pleased to discuss with you, at a time and place mutually convenient, the terms and conditions of an agreement to become effective May [270] 1, 1952. We suggest that discussions be entered into forthwith with the view to effecting an agreement as soon as possible before May 1, 1952.

"Please be kind enough to acknowledge receipt of this notice of termination.

"Very truly yours,

"International Union of
Operating Engineers, Local 542
"By: Roy J. Underwood
"President and Business Manager."

By MR. FREEDMAN:

Q. Did your Committee have any meetings with the Philadelphia Association Committee? A. Yes, sir, we did.

Q. Were they fruitful? A. No, sir, they were not.

MR. O'BRIEN: Objected to, sir.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. On May 1, 1952, the Union went out on strike because there was no agreement with the Association contractors? A. Yes, sir, went on strike against the Association contractors.

[271] Q. Did the strike extend beyond the Philadelphia Association Contractors? A. No, sir, it did not.

MR. O'BRIEN: I didn't get that last answer.

(The last answer was repeated by the reporter.)

By MR. FREEDMAN:

Q. Now, confining myself to the agreement with the independents, Mr. Underwood, at that time was it a requirement to obtain Wage Stabilization Board approval for wage increases? A. In 1952?

Q. Yes. '51 and '52. A. In 1951 the Construction Industry Stabilization Commission had not started to function under the Wage Stabilization Board and we were notified that approval must come from the Wage and Hour Division.

We did apply to the Wage and Hour Division and we got approval from them to put the 25-cent increase into effect. However, in 1952 there was a regulation in effect which provided that a 15-cent increase could be obtained without approval from the Construction Industry Stabilization Commission.

Q. Were any petitions or applications filed by you or [272] by the Union on behalf of the Union with the Wage Stabilization Board or any other Governmental Agency for approval of the wage increases effected with the independents? A. Yes, sir.

Q. Was that opposed? A. Yes, sir, it was.

Q. By whom? A. By the Contractor Associations.

Q. Which ones, of Philadelphia? A. Yes, all three Associations in Philadelphia.

Q. How about the other contractors with whom you had entered into contracts? Did they approve or disapprove? A. Well, they approved. It was a joint application.

Q. They made a join application for approval with you? A. Yes, sir.

* * * * * * *

[275] Q. By the way, in connection with all of these matters that we have just gone over, may I ask you now whether Mr. McDonald was familiar with all of these developments that you have testified to this afternoon? A. Yes, sir, he was.

Q. Was he familiar with and did he participate in these contract negotiations with the independent contractors and with the Association contractors? A. Yes, sir, he did—not with the Association contractors, with the independent contractors.

Q. Did he assist you in attempting to obtain approval of the Wage Stabilization Board or the Department of Labor? A. Yes, sir, he did.

Q. Can you tell us what he did briefly, please? A. Well, we made several trips to Washington together and met members of the Board, or the Wage Stabilization Commission, rather, in an effort to get approval through of the 25-cent increase which we got from the independents in 1951.

Q. Now, did you also enlist the cooperation of the General Office? A. Yes, sir, Mr. McDonald notified the General Office a number of times that we were attempting to get approval [276] of this wage increase.

Q. Did the General Office file a brief in support of your position? A. Ultimately they did, yes. In October, I believe, 1951.

MR. FREEDMAN: Will you mark this, please.

(Carbon copy of seven-page memorandum to the Construction Industry Stabilization Commission was marked Exhibit P-36 for identification.)

MR. FREEDMAN: Exhibit P-36 is a memorandum of the International Union of Operating Engineers to the Construction Industry Stabilization

Commission, entitled "Memorandum of International Union of Operating Engineers Against Petition of the Employers to Reduce the Wage Rate."

By MR. FREEDMAN:

Q. I show you, Mr. Underwood, Plaintiffs' Exhibit 36 and I ask you whether you are familiar with that. A. Yes, sir, I am.

Q. Who signed that memorandum? A. It is just "International Union of Operating Engineers."

Q. Well, do you know who signed it? A. Yes. Mr. Hill, assistant to Mr. Maloney.

[277] Q. His signature does not appear on that copy, does it? A. No, sir, it does not.

Q. But did you see a copy signed by him? A. Yes, sir.

Q. Did he notify you of the fact that he had signed it? A. Yes, sir.

Q. When he filed it did he file it on behalf of the Local Union 542, in the name of the International Union? A. Yes, sir.

THE COURT: How do you know that, Mr. Freedman? You are encompassing within a question a lot of legal consequences and you are not going to prove your case by getting a yes answer to a statement of legal conclusions.

Read that question back.

(The last question and answer were repeated by the reporter.)

THE COURT: You have an unsigned copy here and you are putting a lot of legal implications and legal conclusions on it. I won't accept that.

MR. FREEDMAN: Well, sir, let me develop that.

THE COURT: I just won't accept that kind of proof. You know very well that that is not legal proof.

[278] By MR. FREEDMAN:

Q. Mr. Underwood, do you know whether a memo-

randum was filed by the International Office in support of the Local's application for an increase in wage rates? A. Yes, sir.

Q. Were you sent a copy? A. Yes, sir.

Q. Were you in communication with the National Office about that memorandum? A. Yes, sir. I received a letter.

Q. With whom were you in communication? A. Mr. Hill.

Q. Mr. Hill was whom? A. Assistant to Mr. Maloney.

Q. Was he taking care of the matters before the Wage Stabilization Board and the Construction Industry Stabilization Commission? A. Yes, sir. Mr. Maloney told me he was assigned for that purpose.

Q. Did he file under the name of the International Union a memorandum in support of the Local's position, to your own knowledge? A. Yes, sir. He sent a letter to the Union along with the copy of the petition.

[279] Q. Are you able to state whether P-36 is a copy of the memorandum sent by Mr. Hill under the name of the International Union in support of the Local's position? A. Yes, sir.

MR. FREEDMAN: Thank you, Your Honor, for the opportunity of clarifying.

MR. O'BRIEN: Of course, my silence does not mean that I agree that it clarifies.

By MR. FREEDMAN:

Q. Now, at that time was Mr. Maloney in accord with the increase, or with your application for the increase?

MR. O'BRIEN: Excuse me, I did not hear the question.

A. Yes, sir.

(The question and answer were repeated by the reporter.)

MR. O'BRIEN: I object to the question, sir.

THE COURT: I sustain the objection.

MR. O'BRIEN: Your Honor, I think I am covered on the record with my objection as to the materiality of all this evidence.

THE COURT: Well, whether you are or not, if you see something that you specifically object to, don't [280] hesitate to make your objection. I suggest that you do.

MR. O'BRIEN: I won't, sir. I hesitate to pop up and down all the time if I am covered with this general exception.

By MR. FREEDMAN:

Q. Now, Mr. Underwood, did there come a time when Mr. Maloney withdrew his approval of that memorandum which he had filed, or which had been filed in the name of the International?

MR. O'BRIEN: Objected to.

THE COURT: I will sustain the objection to the form of the question.

By MR. FREEDMAN:

Q. Mr. Underwood, can you state whether or not Mr. Maloney changed his position after the filing of that memorandum?

MR. O'BRIEN: Yes or no?

A. Yes, sir.

By MR. FREEDMAN:

Q. When I say "that memorandum" I am referring to plaintiffs' Exhibit No. 36.

MR. O'BRIEN: Of course, if Your Honor please, a change of position calls for a legal conclusion which I [281] don't think this witness is competent to make.

THE COURT: Do you object to it?

MR. O'BRIEN: Yes, sir.

THE COURT: All right, I sustain the objection.

By MR. FREEDMAN:

Q. Mr. Underwood, are you able to state whether or not Mr. Maloney withdrew his approval in support of your application for an increase in wages before the Construction Industry Stabilization Commission?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. Mr. Underwood, did Mr. Maloney enter any further communication with the Construction Industry Stabilization Commission following the filing of that memorandum marked, what is it, P-36? A. Yes, sir, he did.

(Discussion off the record.)

By MR. FREEDMAN:

Q. What further communication did he make to the Construction Industry Stabilization Commission regarding the subject matter of P-36? [282] A. Following the filing of this petition on behalf of the Local Union he sent a telegram to the Construction Industry Stabilization Commission asking them to withhold approval of our application for the wage increase.

Q. Did you know that he was going to do it? A. No, sir.

Q. Did you know that he did it at the time that he did it? A. No, sir.

Q. When did you find out that he had done it? A. When they produced their record during the depositions.

Q. In this litigation? A. Yes, sir.

Q. Was there any reason that you found out for the entry of that communication?

MR. O'BRIEN: Objected to.

MR. FREEDMAN: Let me withdraw that and rephrase it, please.

By MR. FREEDMAN:

Q. Did Mr. Maloney ever give any reason for entering that last communication? A. No, sir.

[283] Q. Did you ever approve of any such communication?

MR. O'BRIEN: Objected to.

A. No, sir.

THE COURT: Did he, the president of the Local, approve the action of the president of the International? Is that the question you are asking?

MR. FREEDMAN: That is what I asked him, yes, sir.

THE COURT: All right, go ahead. If you want to ask that kind of a question, go ahead and answer it.

MR. FREEDMAN: Let me withdraw that and put it another way.

MR. O'BRIEN: I have no objection.

By MR. FREEDMAN:

Q. Did you ever ask Mr. Maloney to do that? A. No, sir.

* * * * * * * *

[288] By MR. FREEDMAN:

Q. At the close of the testimony yesterday I think that you had testified that you had effected a contract with the independent contractors to begin May 1, 1952; is that correct? A. Yes, sir.

Q. And in that contract I think you stated that there was a re-opening clause. Will you tell us what that re-opening clause was? A. The re-opening clause provided that if anything more favorable was obtained from the associations for the union than provided in the independent agreement, the union could, by notifying the independent contractors, take advantage of that. On the other hand, if anything more favorable to the contractors, independent contractors, came out in the agreement, in the ultimate agree-

ment with the contractors associations, they too could take advantage of it.

Q. On May 1, 1952, were you able to effect any agreement with the Philadelphia Association Contractors? A. No, sir, we were not.

Q. Was any action taken by your organization against the contractors because of that fact? A. Yes, sir, a strike was voted by the membership.

[289] Q. Was it considered first by the Executive Board? A. Yes, sir.

Q. How did the membership vote on it? A. They voted to strike May 1, 1952.

Q. Was Mr. McDonald there at the time of that membership meeting? A. Yes, sir.

Q. Was he also in attendance at the Executive Board meeting when it was discussed? A. I am quite sure he was. However, I can't recall exactly. He attended virtually every meeting. I assume that he was there.

Q. In any event, did he express his approval or disapproval of what the Local had done? A. Oh, he expressed his approval of it.

Q. Did he express his approval of the contract which had been entered into with the independent contractors? A. Yes, sir.

Q. Now, at the time you went on strike against the Association of Contractors of Philadelphia, are you able to state what your demands were, at least your major demands, against the associations, or which had been made to the association? A. Well, one of the demands—

[290] Q. Let me ask you this first: Did you ask the association contractors to sign the same agreement or did you make any other demands against the Philadelphia Association Contractors at that time?

MR. O'BRIEN: The same agreement—

MR. FREEDMAN: The same agreement as had been signed by the independent contractors.

A. No, we submitted these additional demands to the associations as voted by the membership.

By MR. FREEDMAN:

Q. What additional demands were they? A. Well, the principal demands were retroactive pay of 25 cents per hour for those members of the union who were required to work from May 1, 1951, to April 30, 1952, for 25 cents per hour less than the other members were receiving. Another one was the safety code to be included in the collective bargaining agreement.

By THE COURT:

Q. Let me get this straight. You were asking them to pay back pay for all of your members for a full year of 25 cents an hour after the bargaining agreement contracts had been upheld by the State Court of Pennsylvania? A. For those members who were required, sir, to work under that injunction for 25 cents per hour less, yes, sir.

[291] Q. That is despite the ruling of the Supreme Court of Pennsylvania that you had a valid subsisting bargaining contract? A. Yes, sir. I know of no ruling that prevented us from asking for the back pay for these men. In fact, they were assured, in order to get them back to work at all, sir, that the union would take every legal means available to see that they were compensated. We had great difficulty getting those men back to work. They had to leave jobs where they were getting a higher rate to return to their jobs getting a lower rate of pay. We were simply trying to carry out what we had assured the men we would do.

Q. Despite a legal ruling that you weren't entitled to it under the law? A. Well, I don't know how to interpret the legal ruling, whether it be interpreted that way or not, sir. We were required to work under that agreement.

THE COURT: Go ahead.

By MR. FREEDMAN:

Q. I think you mentioned the back pay and safety code. A. Yes.

Q. What were the other major demands? A. We were trying to get wages equal to those being paid across the river in New Jersey to operating engineers doing [292] the same kind of work.

There were a number of other demands considered as minor —

Q. I just want the major ones. Was there another major demand? A. Oh, a pension, yes, a pension and retirement plan, yes, sir.

Q. That is four major demands? A. Yes, sir.

Q. Mr. Underwood, were these demands discussed and considered with Mr. McDonald at the time before they were presented? A. Yes, sir, on many occasions.

Q. Did he participate in the discussions? A. Yes, sir.

Q. Did he approve or disapprove of those demands? A. He approved of them.

Q. Are you able to state whether he reported those discussions and activities to the general office?

MR. O'BRIEN: Objected to.

THE COURT: Read the question.

(The last question was read.)

THE COURT: That may be answered yes or no. The objection is overruled.

[293] A. Yes, sir.

By MR. FREEDMAN:

Q. Did he? A. Yes, sir.

Q. Did he state what the reaction of the general office was?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. Did the general office make known its position to you in your capacity as business manager and president of the local union—its position regarding these demands? A. Through Mr. McDonald, yes, sir.

Q. And what was its position?

MR. O'BRIEN: Objected to.

THE COURT: Sustained, as to the form of the question.

By MR. FREEDMAN:

Q. What did Mr. McDonald say? A. Mr. McDonald told me that he had reported it to the general president and that the International was heartily in favor—

MR. O'BRIEN: That is objected to.

THE COURT: Overruled. He is quoting conversations. He was asked for conversations. He is, I assume, [294] giving it as nearly verbatim as he can. The objection is overruled. Proceed, Mr. Underwood.

THE WITNESS: Mr. McDonald said that the general office was heartily in favor of what we were trying to accomplish and pointed out that they had been advocating it themselves for a period of time, the things we were trying to incorporate in our new agreement.

Q. Did the general office publish any literature in connection with any of these demands which had been made to the Association Contractors at that time? A. Yes, sir, they had previous, just previous to this time.

Q. Concerning which of the demands was there any published literature? A. Well, the form letters came out from the International office advocating a safety code and urging local unions to include a safety code in their collective bargaining agreements. At the convention in April, 1952, held at Seattle, Washington, there the report of the general president contained a number of statements regarding pension plans, pension and retirement plans, welfare plans, safety codes, and a number of other things, and urged local unions to bargain for these things for their membership.

Q. What about wage rates? A. Well, of course, they advocated an increase in wage [295] rates, higher wage rates.

Q. Now, at that time was the local or the several locals of which you were president and business manager affiliated with the Maritime Trades Department? A. Yes, sir.

Q. How did that affiliation come about?

MR. O'BRIEN: We object to this, sir, as being immaterial.

THE COURT: I can't tell whether it is or is not—the case hasn't developed sufficiently—so I will permit him to go ahead. The objection is overruled.

A. I was instructed by Mr. Maloney in March, I believe, of 1952, to go to Chicago to meet with representatives of the Maritime Trades, who were in the process of drafting a constitution for the Maritime Trades Department, and forming the department prior to its entrance into the American Federation of Labor.

Q. Before you go further, I would like to show you two telegrams—

By THE COURT:

Q. When did you go on strike? In 1952? A. Yes, sir.

THE COURT: Let it be noted of record that the opinion of the Supreme Court in the case of General Building [296] Contractors Association versus Local 542, reported at 370 Pennsylvania 73, was handed down on March 24, 1952.

MR. FREEDMAN: Will you mark these, please?

(Telegram from Maloney to Underwood, dated March 20, 1952, was marked Exhibit P-37 for identification.)

(Telegram from Underwood to Maloney, dated March 20, 1952, was marked Exhibit P-38 for identification.)

MR. FREEDMAN: P-37 is a telegram from Mr. Maloney to Mr. Underwood, dated March 20, 1952.

By MR. FREEDMAN:

Q. Mr. Underwood, I show you that telegram marked P-37 and I ask you to read it to the Court, please. A. This is a telegram dated March 20, 1952 addressed to Roy J. Underwood, Business Manager, Local Union No. 542, 121 North—

MR. O'BRIEN: I object to his reading this, sir.

THE COURT: Pass it up.

(Exhibit P-37 handed to the Court.)

THE COURT: The objection is overruled.

THE WITNESS: It is addressed to Roy J. Underwood, Business Manager, Local Union No. 542, 121 North Broad Street, Philadelphia.

"Would appreciate your attending meeting of Maritime Trades Department at Sherman Hotel, Chicago, [297] Illinois, beginning Monday, March 24. Please advise by telegraph if you will be present at meeting.

"William E. Maloney, General President."

By MR. FREEDMAN:

Q. Mr. Underwood, I show you telegram marked P-38, and I ask you to read that to the Court.

MR. O'BRIEN: The same objection.

THE COURT: From whom to whom and the date.

MR. FREEDMAN: It is from Mr. Underwood to Mr. Maloney, dated March 20, 1952.

THE COURT: Very well, you may read it.

THE WITNESS: This is a telegram to Mr. William E. Maloney, General President, International Union of Operating Engineers, 1003 K Street Northwest, Washington 1, D. C.

"Will attend meeting of Maritime Trades Department at Sherman Hotel in Chicago March 24 as requested." Signed Roy J. Underwood.

* * * * * * *

[306] Q. Now, Mr. Underwood, when the strike started, your strike in May of 1952 started, did you seek the aid of the Maritime Trades Department?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. The officials of the Maritime Trades Counsel in Philadelphia volunteered to assist the Operating Engineers in their strike activities sometime in June, late in June, I believe, of 1952.

Q. Did you accept their assistance? A. Yes, sir.

Q. Now, in connection with their assistance was any money paid to the Maritime Trades Department? A. Yes, sir.

Q. Let me ask you first, did they provide pickets? A. Yes, sir.

Q. About how many? A. Well, it varied. I would say between 60 and 100 each day.

Q. Were you having any difficulty getting pickets to [307] man the jobs? A. Yes, sir, we were.

Q. Can you explain why that situation existed? A. Well, we had employment for all of the members of the Union. As a matter of fact, we had to call on Local Unions outside to bring men in to man the jobs. We had difficulty getting enough men to man the picket lines.

Q. When you say "man the jobs," what jobs do you mean? A. Jobs of the independent employers who were in signed agreements with the Union.

Q. Did you pay these pickets who assisted from the Maritime Trades Department? A. No, sir, they were not paid as such. They were allowed certain expenses for rain gear, for lunches, for coffee on the picket line, sandwiches, things of that nature, for transportation. On a few occasions I think a car was rented to transport pickets. Things of that nature were taken care of by the Local Union.

Q. What if any contributions were made or payments were made to the Maritime Trades Department in con-

nection with that strike? A. I didn't understand your full question.

Q. Strike it out. I will rephrase it.

[308] THE COURT: Read the question bzack.

(The question was repeated by the reporter.)

A. The total amount was less than $5000 over the about 45 days I believe that they were picketing.

By MR. FREEDMAN:

Q. How was that paid? A. That was paid by check to the Maritime Trades Council.

I want to say that there were four or five, possibly a couple more than that, at various times picketing who were paid the same as our pickets, the $10 a day expenses. All of our pickets were paid $10 a day.

Q. I was just going to ask you, was there any payment made to your pickets? A. Yes, sir, they were paid $10 per day.

Q. And from what fund were they paid? A. That was a fund created by an assessment voted by the membership, a 3-month assessment, to provide a defense fund for that purpose.

Q. When did the membership vote on that assessment? A. I believe it was in June, at the June meeting.

Q. Was that for the purpose of this strike? A. Yes, sir, any expenses in connection with the strike.

Q. Was Mr. McDonald aware of the aid which had been given [309] by the Maritime Trades Department and your cooperation with them? A. Yes, sir.

Q. Did he approve or disapprove? A. He approved fully.

Q. At that time, and during that period from the time the strike started, was there any substantial unemployment among your membership?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. No, sir, there was not.

By MR. FREEDMAN:

Q. Will you explain the reason for that? A. Well, we had employers under agreement with the Union who employed about 75 per cent of the membership in the Philadelphia area. Throughout the entire jurisdiction of the Union we had negotiated contracts providing for the 40-cent per hour increase, that is 40 cents over 1950. All of the contracts in Delaware were in effect, and we had needed men at the steel plant. The steel plant was under construction, and a great many of the large contractors in the area were continuing with their operations under this agreement. The result was that men [310] were constantly in demand for these jobs. We had to go outside the jurisdiction in many cases to get men.

Q. Despite the strike? A. Yes, sir.

Q. During this period of time was there any unemployment among the building trades crafts? A. Certainly none that I knew of.

Q. Were you in position to know? A. Yes, I think I was.

Q. Did the building trades crafts work on the same jobs where your people were employed generally. A. Generally, yes.

Q. During that period or during the period of that strike was the Building Trades Council on strike against any Association or contractor? A. Yes, sir, they were on strike against a contractor.

Q. Will you state when and against whom. A. Their strike began early in May of 1952 against the Levittown project, the Levitt Company and subcontractors working on that project. That continued until an injunction was obtained against them, later in May, I believe.

Q. Did they seek your cooperation for that strike? A. Yes, sir.

[311] Q. At that time were you affiliated with the Building Trades Council? A. No, sir, we were not.

Q. Did you give them cooperation? A. Yes, sir, we did.

Q. Will you tell us the circumstances, please, that you know of your own knowledge? A. I was called by Mr. Blumberg, of the Building Trades Council, and asked to sit in—

Q. Who is he? A. He is the Secretary-Treasurer—

* * * * * * *

[312] Q. As a result of your conferences with the Building Trades—let me ask you this: Did you give full cooperation to the Building Trades Council at that time? A. Yes, we certainly did.

MR. O'BRIEN: The same objection, sir. It still refers to the Levittown strike.

THE COURT: The fact that he gave cooperation I will let in. It is one of the series of stones in the mosaic.

Go ahead.

Read the question.

(The last question and answer were repeated by the reporter.)

THE COURT: We are talking about a period in May of 1952.

By MR. FREEDMAN:

Q. What period did that cover, Mr. Underwood? A. Well, it was prior to May and also after the strike started in May of 1952.

By THE COURT:

Q. The strike was stopped by an injunction, you have already testified, later in May of 1952; is that right? A. Yes, an injunction was obtained against the Building [313] Trades Council.

By MR. FREEDMAN:

Q. Can you give us the date of that injunction, Mr. Underwood? A. I can't. I am sorry.

By THE COURT:

Q. It was still in the month of May, I think your recollection was a few minutes ago. A. I think it was, yes.

By MR. FREEDMAN:

Q. What was the nature of your cooperation, Mr. Underwood?

MR. O'BRIEN: Objected to.

THE COURT: I will let it go in. The objection is overruled.

A. Well, I attended conferences with the Building Trades Council representatives and with Mr. Levitt and his attorneys prior to the strike of May 1, 1952, where we were requested not to sign agreements with Mr. Levitt. Mr. Levitt had told us he would sign contracts with the Operating Engineers and the Teamsters, but not with the other trades. The counsel for Building Trades Council, Mr. Syme, at a subsequent meeting and at those meetings urged the Operating Engineers not to enter into contracts because it would then be impossible, he said, to put pickets on the job, and the [314] rights of the other trades on the project would be destroyed, under the Taft-Hartley regulations.

We didn't enter into any agreement with Levitt and fully cooperated with the Council in assigning pickets to assist them on that project after they went on strike and continued to assign pickets to the job for the duration of the strike.

By MR. FREEDMAN:

Q. Did you respect their picket line too? A. Yes, sir. Their strike continued, I might say. An injunction was issued, but it limited the picketing, that was all, limited the number of pickets.

Q. Do you know for what period of time it continued? A. I can't say now. I believe the injunction was issued in May, but how long the picketing continued after that, I don't know.

Q. Now, Mr. Underwood, starting with May 1, 1952, did you and your Negotiating Committee have any further conferences with the employers? A. Yes, sir.

Q. Will you tell us what conferences you had and what results were achieved. A. I believe we had—

Q. Will you give us the development that took place [315] in connection with your negotiations and in connection with the entire strike at that time. A. I believe we had two or three conferences with the employers between the period May 1, 1952, and up till July 21, 1952, where only the representatives of the Local and the employer representatives were present.

On July 2, 1952—

Q. Did you have any during May or June? A. I don't recall any conferences with the employers during those two months. There might well have been, though. At least they weren't fruitful.

Q. During that period of time were there any meetings of the membership being held? A. Yes, sir, there were.

Q. And by whom were they attended? I mean what officers attended them? Where were they conducted, first of all? A. Well, there were meetings held in Town Hall and possibly at the Broadwood, too, but I think that the—well, at both places, yes, Town Hall and the Broadwood Hotel.

Q. How frequently did you hold meetings? A. Well, the regular meetings were held, Executive Board meetings were held, once a month, and the regular membership meetings were held once a month. However, there were [316] additional meetings held during that period. Special meetings were called of the Executive Board and of the membership.

Q. Were these meetings well attended? A. Yes, sir, very well attended.

Q. How many would you say attended these meetings?

A. Oh, there has been in excess of 3,000 members at one of the meetings, and there was very close to that when other meetings were held.

Q. Did Mr. McDonald attend these meetings? A. Yes, sir.

Q. Were there any special meetings called during the period of this strike? A. Yes, sir.

Q. When and where? A. I don't recall all of them now. I know that special meetings were called. During the month of June I recall a meeting, I think on June 23, at the Brith Achim Hall at 9th or 10th and Spruce Streets. That was one special meeting.

Q. What happened at that meeting? Who attended it, to begin with? A. That meeting was attended, of course, by the membership, by the Local Union officers, Executive Board, and Mr. John McDonald, and also by officers representing the Maritime [317] Trades in this area.

Q. You say that was a special meeting? A. Yes, sir.

Q. What was the purpose of it? A. Well, a back-to-work movement had been started and announced in the press involving Mr. Baronett and Mr. Jasper White, who was formerly the assistant in here to Joe Fay during the period of supervision.

MR. O'BRIEN: I move that that be stricken, sir.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Who was Mr. Baronett? A. Mr. Baronett was a former agent of the Union, and he was at that time a member of the Union. He was conducting a back-to-work movement. So it was announced in the paper, and it was announced jointly by him and the contractors that the men were going to return to work. There was assurance given by Mr. Baronett and Mr. White that the men would return to work I think about June 24, and threatening letters were sent into the Union, and correspondence was circulated among the membership by Mr. Baronett. At least,

his signature appeared printed on the papers, on the letters. Therefore, the meeting was called for the purpose of [318] organizing the pickets and making certain that they were assigned to the various jobs and we had sufficient pickets to man the jobs in the event this was started.

We could only rely on reports that we received, of course. The reports were that they were going to bring in men from New Jersey and some other areas to go through our picket lines and man the jobs.

The officers of the Maritime Trades Department at that meeting pledged their full support and agreed to furnish as many pickets as required to stop any attempt by others on the outside to come in and break the strike.

Mr. McDonald spoke at that meeting on behalf of the International Union and told the members that the International had been advocating for a long period of time the very things we were fighting for, and said that we had the full support of the International Union in our fight, and he thanked the Maritime Trades Department officials for coming in and giving their support.

At that meeting a motion was made on the floor that the strike continue and that the demands originally submitted to the contractors continue without change. I believe that is substantially what occurred at the meeting.

Q. Now, up to that time had you been in touch with Mr. Maloney personally regarding the strike? [319] A. Mr. Maloney called me on one occasion, and I think it was in June. He first called me about the middle of June, and he said he just called to ask how the strike was going.

I told him it was going very well.

He said, "Well, you haven't got any trouble there then, have you?"

I said, "No, there is no particular trouble, any more than any strike would be." I said, "The strike is progressing nicely," and I don't know that he talked about anything else. It was a very short conversation, but that was about all he said at the time. He told me he would be seeing me.

or something to that effect. He said he just wanted to know how it was going.

Q. Did you see him personally at any time during that period? A. No, sir, not up until June, up until that telephone call. Following that, I did, yes.

Q. Will you tell us about that, please. A. Well, Mr. McDonald told me that Mr. Maloney wanted to meet with me and Mr. McDonald in Washington on July 2—I believe that was either on July 1 or the same day—and discuss the strike situation.

Mr. McDonald at that time told me that he had been getting reports, Mr. Maloney had been getting reports, [320] from New Jersey, and they were getting false and inaccurate reports about our activities.

However, we went to Washington and met with Mr. Maloney, Mr. Gramling, and Mr. Wharton at the Hamilton Hotel, where they had engaged a suite of rooms, and we discussed the entire situation in Philadelphia, about the demands being made by the Union, the independent agreement. We explained to him how the independent contractors had signed agreements with us and paid increased wages from 1951 up to that time, while the association contractors were permitted to work for less money, 25 cents per hour less.

It lasted for two or three hours. Mr. Maloney told me that there had been considerable pressure put on him by contractors. Mr. J. Howard McGrath, he said, had been calling him, and I think he mentioned Governor Fine at that time, and he said that he would like to see it settled, but he said that pressure had been put on him because there had been reports that we would not talk to the contractors.

So he said that in order to relieve himself of this pressure, he was going to send in an observer.

I tried to convince Mr. Maloney at that time that Mr. McDonald had been an International officer for 30 [321] or 35 years and that certainly he was thoroughly familiar with what was going on in the area, that it was unnecessary

to send in an observer, in addition to which certain contractors had been informing the members that the International was going to intercede in our strike and send a man in.

I told Mr. Maloney if he sent anybody in there then other than Mr. McDonald, it would be interpreted, of course, as a move by the International to break our strike or interfere with the strike and would only encourage the employers to hold out that much longer.

Mr. Maloney said, "Well, I will think about it." He said, "I will wait another week or so."

So I asked him then, well, whom did he intend to send in as an observer?

He said he didn't know, he had no idea.

I asked him why he didn't rely on Mr. McDonald. He knew the situation.

He said, "Well, we'll see, we'll see."

At that time I talked to Mr. Maloney—and Mr. Wharton was in the room—"By the time we get back to Philadelphia, Mr. Maloney, the contractors will know that we had this meeting." I said, "Somebody is keeping them very well informed of any conversations that take place [322] between this Local Union and any of the other Union officials."

He said, "Well, if they know about it, you will have to tell them."

I said, "You can be sure I won't tell them, but they will know about it."

So we returned to Philadelphia with that understanding that we were to wait for some period of time before an observer would be sent in.

Q. Before you go on, was Mr. McDonald present throughout that entire conference with you? A. Yes, sir, he was.

Q. Please go ahead. A. We came back to Philadelphia and I received a call the following day from Mr. Hawthorne, who told me that he had just heard through the

grapevine that I had been to Washington the evening before and was called up on the carpet by the International and that the strike wouldn't last much longer.

I received reports from agents. I believe Mr. Leone called me and said he had heard the same reports on one of the jobs he had visited, from the contractor.

We continued, of course, with the strike, and about the 17th, I think July 17, I received a call [323] from Mr. Maloney, and he said that he had decided to send in an observer, and he repeated again that his only purpose in sending in an observer was to relieve the pressure on him from other sources; and I asked him whom he had in mind to send in, and he evaded it for a while, kept talking about pressure, and finally he said he is going to send in William Carter from New Jersey.

I said, "That is the worst possible choice I think you can make, Mr. Maloney. His reputation around here is terrible." I said, "He was in here prior to Local autonomy, interfered with the management of the Union, got up on meeting floors and threatened our members. He spoke for Joe Fay. He has tried to interfere with the management of the Local continually since we had autonomy," and I said, "Of all people to send in here, he is the worst choice I can imagine."

He said, "Well, that is all right. He is only coming in as an observer to report to me," and he said, "He is the one I want."

I again asked him not to send him in and to rely on Mr. McDonald, who was giving honest and truthful reports to him and who certainly was more familiar with the situation than anybody else could be outside of our own Local officers.

[324] "No," he said, "I want to send Mr. Carter in."

I said, "Can you give me any reason why, Mr. Maloney, you are insisting on Carter?"

He said, "Because I want to send him in, that is all."

I asked him when he was coming in.

He said, "Well, I will have him call you after he makes the arrangements."

So I asked him four or five times please not to send Mr. Carter in, but he was insisting that Carter come in.

In any event, I received a call in from Mr. Carter.

I want to mention this, that when I told Mr. McDonald that Mr. Carter was coming in, he said, "There goes your strike."

So I received a call from Mr. Carter. It was shortly after that, I guess it was the 17th or 18th, maybe it was the same day that I talked to Mr. Maloney, of July, 1952. He told me that he was making arrangements to meet in Philadelphia with himself, Mr. Halloran, and me in attendance only to discuss the contract situation, the strike situation.

[325] I told him then that any meeting with the employers concerning our strike situation or new contract demands would have to include the representatives of the Local Union.

He said, "Well, they are not going to be there," and he said, "I have my instructions," and he said, "I am making arrangements for a meeting, and I want you to be at the Broadwood Hotel on Monday," I believe it was, July 21, in Room C-4, C-5, or something. I forget the number.

I asked him why he had made the arrangements and discussed the matter with Mr. Halloran instead of having the Local make the arrangements if they were to be made for a meeting.

He said he has his instructions and he is following them.

Well, in any event, we met on July 21 at the Broadwood Hotel at the appointed place, and I had with me the committee, Negotiating Committee, of the Local Union.

I believe Mr. Carter was in the room when we walked in, and he became very agitated, exercised, over the fact that these fellows were coming in. He wanted to know what they were there for.

I told him they were the Negotiating Committee [326] for the Local Union. So he got up and he said, "Well, this isn't what I told you."

I said, "I know it isn't what you told me," but I said, "I told you that any discussions concerning our contract, any discussions concerning our strike, would have to be in the presence of the Negotiating Committee."

Well, he left the room then and said he would be back, and then he returned I think in about a half hour or three-quarters of an hour with Mr. Halloran. They both came into the room together. Mr. Halloran looked at the committee sitting there and he said, well, he wasn't prepared to discuss anything with the committee. He said he understood that we were to meet privately in the hotel room there at the Broadwood, just Mr. Carter, himself, and I; and I asked him then, I said, "Well, aren't you authorized to discuss the situation at least as chief negotiator?"

He said, "I don't want to."

He did talk about a couple of things, I believe, but it wasn't negotiating, of course, but he left and said he would get his committee together then and have a meeting, but Mr. Carter was insisting all the time that we leave there and go to some hotel room and discuss it, and that was the last thing I would have done under the circumstances.

[327] We then arranged, I believe, to have a meeting the following day. I believe it was the following day, yes, in the Broadwood Hotel, where the representatives of the contractors, the representatives of the Union, were to be present, and Mr. Carter as an observer.

I called the Executive Board that evening and asked them all to be present at the Broadwood Hotel in the morning when this meeting was to convene. They were present. I asked permission to bring in the Executive Board into the discussions. Since the International Union had seen fit to send in an observer, I felt that the entire Executive Board of the Union should see what was taking place.

They objected vigorously to that. Mr. McDonald came

up the first thing in the morning, and he left. He said he wouldn't be back. He left, but he came back and said he had gotten a call from Mr. Maloney telling him to get that Executive Board out of that hotel, that they were only going to stop negotiations. So he suggested that we cut it down to five, I believe, five members. We did that in order to get going with the negotiations.

We started out the negotiations by announcing our purpose in being there, and I suggested that we [328] start talking about the demands of the Union, since up to that time we hadn't been able to discuss them with the employers.

Mr. Carter got into the thing immediately, and he says, "Well, I think I ought to say something about these demands," or something to that effect. He said, "To me they sound pretty impossible." He said, "You are asking for an awful lot of things here."

I said, "Well, have you looked at the employers' demands? There are 44 demands made by the employers which would set the Union back 30 years if they were accepted."

So he said, well, he didn't want to quibble about it. "I am in here," he says, "to try to straighten this thing out."

I said, "I understood you are in here as an observer."

He said, "Well, I have got my instructions, and go ahead with your negotiating."

So we began to talk about the demands, and every few minutes Mr. Carter would interject something, until at one point Mr. Lavery, who is now assistant supervisor of the Union, got up and suggested that he go over on the other side of the table with the employers.

[329] I asked Mr. Carter two or three times to refrain from making any comments that would only make our negotiations more difficult if not impossible. He would become angered when I would mention this to him, but all this was taking place in the presence of the contractors.

Finally, after he kept insisting that we were—he was

insisting more that the demands were too stringent than the employers themselves during those conferences.

Of course, we made no progress, none at all. So Mr. Carter was becoming more and more irritated. He had with him, incidentally, a couple of his men from New Jersey. He was becoming more and more irritated because we wouldn't accept the suggestions as to eliminating this. At one point he said, "Throw out all your demands. They are only window-dressing"—after the membership had been on strike then for almost two months for these things —in fact, over two months, almost three months.

We stopped for lunch, and as I recall, he went out to lunch with Mr. Halloran and he didn't return from lunch until about 3. I believe we left about 12:30 and then returned about 3 P. M. in the afternoon, and he handed to us or he read off to us from a paper headed [330] "Suggestions by Mr. Carter and Agreed to by the Employers."

* * * * * * * *

[331] Q. Mr. Underwood, I show you P-41 and I ask you whether that is the paper or a copy of the paper that Mr. Carter came in with that you testified to before. A. Yes, sir, that is a copy.

Q. In whose handwriting is that? A. That was written by one of the men who accompanied Mr. Carter from New Jersey. I believe his name was Cahill.

Q. Where was it written, and when was it written? A. It was written when Mr. Carter returned to the meeting with Mr. Halloran. He first read this off to us. I asked for a copy. He first refused—

* * * * * * * *

Q. Proceed, Mr. Underwood. A. Mr. Carter at first refused to give us a copy, to [332] give the Union representatives a copy of this, and when we insisted that we have a copy he went outside and conferred with Mr. Halloran and came back then and agreed to have his secretary, whom he referred to as his secretary, Mr. Cahill, write a copy out for us, and this is a copy of that.

Q. Is this an exact copy, verbatim copy of it, as you recall? A. As I recall it is, yes.

Q. When was it written out by Mr. Cahill? A. By Mr. Cahill, yes.

Q. When, I say? A. Oh, at that meeting.

Q. In the presence of all? A. Yes, sir.

By THE COURT:

Q. That is the meeting of July 21? A. No, no, this was July 22 or 23.

Q. 22 or 23, all right. A. Yes, sir.

At that time we challenged Mr. Carter's right to come in here and even make suggestions as to what should go into a contract for the Local Union, pointed out that the Committee for the Local Union was there to negotiate [333] the agreement, and that certainly what he had written out here was completely unacceptable, but again we pointed out that he was interfering with us, interfering with our right to negotiate our own contracts and certainly placing stumbling blocks in the way of reaching an agreement.

We argued on the point back and forth. Several members of the Committee made remarks to Mr. Carter about the impropriety of the way he was conducting himself. And then we attempted to discuss our demands, our original demands with the employers.

That went on for a considerable period of time. We were making no progress at all. So it was finally suggested, I believe Mr. Carter suggested, that we adjourn the meeting. And the employers readily agreed and we then met together, the representatives of the Union met together, and discussed this. It was decided—

By MR. FREEDMAN:

Q. Was Mr. Carter at that meeting? A. Not at that meeting, no, sir.

Q. When you said the representatives of the Union, who did that include? A. Only representatives of Local Union 542.

By THE COURT:

[334] Q. The Negotiating Committee? A. Yes, sir.

Q: All right. A. It was decided then that the following morning there would have to be a full understanding with the employers as to what Carter's function here was to be. So the following morning we met again with the employers. Mr. Carter was present, his son, John Carter, a fellow named Duffy, one of the agents from Local 825, and I believe one other, I am not sure now.

The following morning I started out by advising the employers that while Mr. Maloney had assured us he was coming in there only as an observer, Mr. Maloney nevertheless had refused to give me a letter stating just what his function was or was to be. But I said as long as I had Mr. Maloney's assurance that he was only to be an observer, that I think we should tell the employers that they should not rely on any statements or any assurances given them by Mr. Carter, that they were to negotiate with the negotiating representatives of the Local Union, and that nobody else was to come in and interfere. And I felt the negotiations were being stymied by the conduct of Mr. Carter.

Well, he then, Mr. Carter, got up thoroughly [335] enraged and stood up and said, "Well, now I am going to tell you something." He said, "I have authority from Mr. Maloney to come in here and write and sign a contract for this Local Union."

I said, "Where did that authority come from and when?"

He said, "It came from Mr. Maloney," and he said, I believe he said, "It came to me last night, to write and sign an agreement."

Well, then, of course, a little storm broke loose, and the members of our Negotiating Committee insisted that Mr. Carter was not going to write and sign any contract and he wasn't going to bind the Local Union to anything, that only the committee selected by the membership of the

Union was going to bind the Local, if and when they bound it at all.

So Mr. Carter I believe then left along with his representatives that he had brought in from Local 825, and the employers left. I then went back to the Union.

I believe he said, "You'd better call Mr. Maloney."

I said, "Well, I fully intend to call him." But I went back to the Union office and called Maloney. [336] I told him what had taken place and he said, "Well, you better come out to Chicago and talk it over." So arrangements were made then for me to go to Chicago and discuss this with Mr. Maloney.

We called a meeting before I went to Chicago of the Executive Board, I believe, and at that meeting I told them what had taken place. I told them about Mr. Maloney's request that I come out and discuss it with him, and I told them then that Mr. Maloney might take the position, since he had sent Carter in here, refused to give me any letter indicating his function, but told me he was an observer, and Mr. Carter had certainly gone way beyond that and interfered with our negotiations, and I said, "Mr. Maloney might suggest that we retreat from our demands. Therefore," I said, "I think the Executive Board should work out something which might be some retreat from our demands without injuring the membership too severely and something they think the membership would approve."

As a result of that we did work out something with the Board where certain demands were to be accepted, others were to be arbitrated. I went to Chicago, I believe—

By MR. FREEDMAN:

Q. Who attended that meeting and about when did it take place, Mr. Underwood? [337] A. The members—

Q. Did the entire Executive Board attend? A. Yes, sir; yes, sir, the entire Executive Board. There might have been an absentee or two, I am not certain about that now.

Q. About when did it take place? A. It took place, I believe it was July 26.

Q. As closely as you remember. A. Yes, I think it was July 26.

Q. Was Mr. McDonald at that meeting, if you remember? A. I don't believe he was. I am not certain. I don't believe he was at that meeting. I am not certain of it, though.

Q. Go ahead. A. But in any event, I did discuss it with Mr. McDonald, because he was in the office and knew that I was going to Chicago, and I told him what had taken place.

Q. Did you relate all of the details of Mr. Carter's activities to him? A. Yes, sir.

Q. Did he say anything about that? A. Yes, he said a lot about it.

Q. What did he say about it? A. He said that he had said initially, when I told him, [338] that Mr. Carter was coming in, said "There goes your strike." He said, "Well, it looks like it's gone now."

I said, "No, I don't think so." I said, "I am going to lay all the facts in front of Mr. Maloney and I am sure that the thing will be straightened out. We have a right to negotiate our own agreements, and he will certainly agree with that and get Carter out of here."

So he said, "Well, good luck to you." He said, "I will be waiting for you. Let me know what happens as soon as you get back."

I said, "All right."

So I went to Chicago and met with Mr. Maloney. I believe it was on a Sunday, about July 27, I believe. I met with him about noon. He came in from his home and met me at the offices of Local Union 150 in Chicago.

We immediately started talking about the situation in Philadelphia, and he said he had gotten reports from Mr. Carter and he said they differed from the report I was giving him of what had taken place.

I tried to talk to him about our demands again, our independent agreement, how it was arrived at, all the circumstances in connection with it, and Mr. Maloney didn't show much interest in it, in that phase of it. But [339] he kept saying, "Well, Mr. Carter tells me a different story. Now, Mr. Carter tells me a different story."

I said, "Well, why don't you call Mr. Carter?" I said, "Let me get on the extension on the phone and we will make it a three-way conversation, and let him repeat the things that he told you where I can hear them."

"No," he said, "I think I will have him come out here."

So he got on the telephone then, called Mr. Carter, and asked him to come to Chicago.

That first day, however, in Mr. Maloney's office, he kept saying to me when I would talk about our demands and the independent agreement and how important it was to the membership, he kept saying, "Well, you have to get along with the contractors, Roy. You have to get along with them."

It became almost a chant throughout the entire series of meetings in Chicago. He told me that he had been in this business much longer than me and to listen to him. And I pointed out to him that the membership had elected me to office, they were relying on me, and I said it would be a betrayal of their interest to agree to anything that they had not approved, or something that they [340] were not entitled to.

He said, "Your members," he said, "don't appreciate anything." He said, "You listen to me." He said, "Why don't you go on back to Philadelphia," he said, "and tell your Executive Board to agree to the proposal submitted by the contractors?"

I said, "Well, what are the proposals of the contractors?"

He said, "Well, they are sure different than what you are asking for."

I said, "No, the Executive Board in the first place

would never approve of that, and in the second place I wouldn't ask them to."

He said, "You don't have to ask them to, you tell them to."

Well, I said they wouldn't do it. He then said, "Do you mean to tell me you don't control your Executive Board?"

I said, "No, sir, I do not control the Executive Board. They do control me."

Well, then he says, "The only thing I see to do is to put that Local under supervision and make you the supervisor. Then," he said, "I will order you to sign the contract those contractors in there want and," [341] he said, "you have to get along with those Associations," he said. "You can't do business in the Union unless you get along with those Associations." And he said, "You will do all right for yourself, too, if you get along with them. Now, you listen to me."

And that was the way he kept talking throughout. He became angered when I would insist that we had to proceed with our negotiations on the basis of the demands, and he would tell me that I didn't know what I was doing and that I was pursuing the wrong direction. Then he would talk very kindly to me and tell me he had confidence in me. At that time he said that he was thinking of putting on another International vice-president, and he had me in mind and he would follow that up then by saying, "Now, go on back there, get along with those contractors. Go ahead and get that contract signed."

I would again go into the independent agreement, the demands that had been made, go into the history of how these men had been required to work for a period of a year under an injunction that required the Union to do things far beyond its own contracts that they alleged existed. But Mr. Maloney came back to the same thing again, came back to the same thing. And the result, [342] we left there in the evening. I guess our conference lasted maybe three or

four hours. We left, I went to a hotel and we were to meet the following day in the offices of Local 150, when Mr. Carter was to be present.

We did meet the following day. Mr. Carter was there with his son, John Carter. However, John Carter did wait in an outer office.

Well, the question arose then, of course, as to what had transpired in Philadelphia. Mr. Carter didn't deny too many of the things I said, but he did state that the contractors had agreed to a great many things that they hadn't agreed to. I didn't have this with me, "Suggestions by Mr. Carter," but I told Mr. Maloney that he had drawn up such an agreement and it even required the Local Union to surrender its bargaining rights even in working out an agreement based on this, and that certain provisions would be worked out between Mr. Carter and Mr. Halloran.

I reminded Mr. Maloney that he had assured me that he didn't give Carter, he had told me that he didn't give Carter authority to write and sign a contract. In the presence of Mr. Maloney I brought this up again, Mr. Maloney and Mr. Carter. Mr. Maloney [343] at that time, in the presence of Mr. Carter, made no answer to it and insisted on talking about something else. Mr. Carter didn't deny it then, that he had that authority, in the presence of Mr. Maloney.

While the discussion was going on it was suggested, I believe by Mr. Carter, that they call Mr. Halloran. When I went out there I was only prepared to go out and discuss this with Mr. Maloney. So a call was put through to Mr. Halloran's office in Philadelphia by Mr. Maloney. He was told that Mr. Halloran wasn't in, and he mentioned Mr. Carter's name to whoever answered the telephone, and he turned around and said, "Well, they will talk to you. They want to talk to you, Carter."

Carter got on the phone and it developed then that he was to call the Airport, the Philadelphia Airport, Mr. Halloran was at the Airport. He turned around and he

said, "He's on his way out here. He is at the Philadelphia Airport."

So he got hold of Mr. Halloran at the Airport and he was assured evidently, because he told us so, that Mr. Halloran was already on his way out, ready to get a plane to come to Chicago for this conference.

I then said to Mr. Maloney, "Well, how in the world did he know that we were here in Chicago?"

[344] Mr. Maloney said, "Well, I don't know," he says. "I think I will ask him when he comes out."

"Well," I said, "there are some mighty peculiar things going on out here." I said, "It looks like they are ganging up now. I came out here only to discuss this with you, but," I said, "they are coming in from all directions."

So he said, "Well, we will find out about that," he says, "when he comes out."

Well, Mr. Halloran arrived the following day and we went into conference in the same place, Local 150 offices in Chicago. I believe the first thing I asked Mr. Maloney if he was going to inquire of Mr. Halloran how he knew we were meeting out there, and he said, "Forget about that; forget about it and let's talk about these other things."

I had a copy of the independent contract with me. I had the demands of the Union. I had a copy of the expiring trust agreement and the new trust agreement. I don't recall that I had anything else there at the time. Possibly the demands made by the employers, but I don't recall that now. But in any event Mr. Halloran had them.

I started out by trying to explain to Mr. [345] Maloney what was meant by the independent agreement. I had spent considerable time before that trying to make it clear, but questions he had asked me subsequent to that indicated that he hadn't understood what I told him about it. I suggested that we go over the independent agreement first and find out just what the objections were of the employers to the independent contract.

Well, Mr. Halloran objected to that immediately. He

said they didn't want to talk about the independent agreement, they wanted to talk about their 1949 agreement.

I told him that the 1949 agreement had expired, but this agreement with the independents had been in effect, the Associations had lagged behind the industry, and that now they had to catch up, that 70 per cent of our members in the Philadelphia area were receiving these higher rates and had been receiving higher rates over the past year, and now the Associations were lagging behind and they had to come up to date before we could proceed with the negotiations on the other demands.

Well, each time I would try to make a point Mr. Maloney would turn to Mr. Halloran, who was seated across the desk. He would say, "What do you think of that?"

He would shake his head no.

[346] Mr. Maloney would then turn to me and say, "It's no good, he doesn't want it."

I went through the independent agreement as best I could. I was reading them off and trying to explain to Mr. Maloney why these demands were justified or why the clauses in the independent agreement were justified, and I would try to get into the other demands, the pension program and so forth, but he would keep referring to Mr. Halloran and saying, "Well, he doesn't want that. He has told you he doesn't want that."

At one point I got up and told Mr. Maloney, I asked him if he was concerned at all about what the membership wanted who were paying dues into the Union. He says, "I told you before to stop that kind of talk." He said, "You have to get along with the contractors." And he said that in the presence of Mr. Halloran.

Well, it was obvious to me that it was futile to try to proceed with any discussion of the demands in an atmosphere like that. Mr. Carter was sitting in there, too, and now and then Mr. Maloney would turn to him and Carter would say something about it being outrageous and "They'll never get them" and remarks of that kind.

[347] So finally I suggested to Mr. Maloney, "Well, suppose I attempt to draw up something which I think the membership might accept, on the basis of the independent agreement and the demands made by the Union?"

He said, "Well, all right, go ahead and do that."

That was in the afternoon. We had been discussing this back and forth from about eleven o'clock, I believe, in the morning, up until the afternoon. So I stayed up all that night writing out in longhand as nearly as I could recollect what the Board had recommended in the way of revisions in the demands. The following morning I went to the offices of Local 150. I asked the girl in charge of the office if she would type them up for me. She said she couldn't do it. I asked her if she would call Mr. Maloney and get permission, and she said that she was sorry but they weren't allowed to do that. So I went out to nearby buildings until I found a public stenographer who would type them up.

I came in—I think it was eleven A.M. the conference was scheduled to start. I came in with typed copies of this proposal. I handed a copy to Mr. Maloney and a copy to Mr. Halloran. I told him that this was what I thought the membership would accept. That [348] provided as nearly as I could recall what the Executive Board had recommended in the way of changes. It provided for arbitration of many of the demands and the acceptance of other demands by the employers as a basis for settlement.

Mr. Maloney looked at the first page and started to read it and he said, "You got a lawyer with you, haven't you?"

I said, "No, I don't have a lawyer here."

And he became angry and he said, "Don't tell me that." He said, "I know. You have got a lawyer here in Chicago with you and you didn't say anything to me about it. You brought him in anyway, didn't you?"

I kept assuring him I didn't have a lawyer in Chicago. He said he didn't believe it, and Mr. Halloran had glanced

at the sheet and was reading it, the two sheets, I believe, so he said to Mr. Halloran, "What do you think of it?"

Mr. Halloran says, "No good; no good at all."

Mr. Maloney simply turned to me and said, "Well, there it is; there it is, Roy. He doesn't want it."

So he started talking—Mr. Maloney started talking then about the welfare program. I told him how [349] the welfare program had expired, the old welfare program that the Associations had negotiated for the Union in 1950, and they had announced to the Union they wouldn't renew the welfare program, therefore we had set up a new welfare program with the independent employers, and it was in operation. And each time I would try to tell Mr. Maloney, explain to him why we did these things, he would turn to Mr. Halloran and Mr. Halloran would either shake his head or he would make some comment about it. He said that the welfare program hadn't expired. I opened it, I showed it to Mr. Maloney. I said, "There it is. By its own terms it expired on that certain date."

And Mr. Maloney wasn't interested. He would just glance at it, but he wouldn't read it.

Well, we kept on like that until in the afternoon, I forget just the time now. But it wasn't too late in the afternoon; but it was in the afternoon. And finally Mr. Maloney said, "Well, I don't see how you are going to settle this," he said, "until you do something about that welfare business." He said, "Go back to Philadelphia and get a neutral lawyer and let him settle that welfare."

I asked him what he meant by that, I didn't [350] understand what he meant by it. He said, "You go on back," he said. "Never mind, go on back there and get that settled," and he said, "Now, you fellows better get that settled first," he said, "and then," he said, "you go ahead with your negotiations." Because I had told Mr. Maloney during the conference two or three times that the Local Union had a right to negotiate its own contracts, and he agreed with that. I told him also the Local Union had a

right to engage in a strike, and he said, "Well, we will see about that."

So that when we left his office in Chicago the very last thing Mr. Maloney said that I can recall now was, "Go on back to Philadelphia and continue those negotiations. But," he said, "first get that welfare fund transferred into the new fund."

So we left and came back to Philadelphia—I did, at any event. When I arrived in Philadelphia I met some of the representatives of the Union and I think I called the office or they told me that there was a call at the office for Mr. Maloney.

[351] I called Mr. Maloney back, and he told me to arrange a meeting with the contractor associations, and he said, "What was that paper you had out here in Chicago?"

I said, "You mean the proposals that I brought in?"

He said, "Yes." He said, "Take that in there and tell them that's what you want."

Well, I said, he wouldn't even talk about it in Chicago.

He said, "Well, that's all right. You take that in there, and you can get that Welfare Fund straightened out, and you can get some of these things and get your independent contract straightened out and a few other things." He said, "You go on in there and you tell them that that's what you want."

"Well," I said, "we are going to have a meeting, of course."

So we called a meeting I believe for the following day, arranged a meeting for the following day, with the contractors' representatives. At this meeting Mr. Carter wasn't present, because Mr. Maloney had told me he wouldn't send Carter into the further meetings we were going to hold. At this meeting with the contractors—it must have been about August 1—the meeting was opened [352] up, and I announced that we had been to Chicago, that Mr. Halloran had been out there, and the result of

that was that Mr. Maloney had suggested that we go back and continue our negotiations, and that the employers would transfer the funds in the old Welfare Fund into the new fund then in operation.

Mr. Halloran said, "Well, now, wait a minute. That isn't my understanding with Mr. Maloney."

I said, "When and how did you have any other understanding with Mr. Maloney than the one we had in Chicago?"

"Well," he said, "that's not the way I understand it." He said, "I have an understanding that we are going to come in here and talk about the 1949 agreement."

I said, "Well, no, that is not mine at all," I said, "we were to come back here and negotiate."

I asked him again, I said, "When did you have this understanding with Mr. Maloney?"

He said, "Well, that is my understanding. If you don't believe me, you call Mr. Maloney."

I think the meeting broke up. I said, "I certainly will have to call Mr. Maloney."

I went back to the office and I got Mr. Maloney again on the telephone. I told him what had happened, and he started haranguing me then over the [353] telephone about, "I told you to get along with those contractors," and the whole thing started over again. "You have to get along with the contractors. Stop fighting with the contractors and do as I say."

I said, "Well, that's exactly what I did. I went in there with proposals that I submitted in Chicago. You suggested I take them back in again. That's what I did."

He said, "That wasn't what I said at all."

I said, "What did you say?"

He said, "I told you to sign what the contractors wanted, what they were asking for in there." He said, "That was what I told you to do."

I said, "You didn't tell me anything of the kind."

He said, "Well, I can speak English," and he became

very angry about the whole thing, and he said, "That's what I told you to do and that's what I want you to do."

So I said, "Well, I don't see how we can possibly do that." I said, "We can't put a thing like that before the membership, surely." I said, "They have been on strike now almost three months for these demands." I said, "They would have to lose everything that they had [354] been striking for."

He said, "Well, I am going to call Mr. Halloran again, and I will be in touch with you." So he said he would call me back, I believe. Mr. Maloney said he would call me back that day or the following morning.

As I recall now, I didn't receive a call from Mr. Maloney until two or three days later, two days later, I believe. It was August 4. Mr. Maloney called and said that we were to accept the proposal of the contractors, and he said, "I want you to call a meeting and put that proposal up to the membership."

I said, "What proposal are you talking about?"

He said, "You know what I mean. You go ahead and get that proposal from the contractors and give it to the members and get that approved."

I said, "I still don't know what you are talking about." I said, "Will you send me a telegram"—the meeting was to be held on August 5, the regular meeting, and he called me on August 4—"Will you send me a telegram setting forth exactly what you want me to present to the membership?"

He said, "No, I won't send you a telegram. I am telling you what to do."

I said, "Well, I can't do anything unless [355] you do put it in writing, because I don't know what you are talking about."

So he hung up then, I believe, and I sent a telegram then to Mr. Maloney requesting him to advise us in writing what he wanted us to submit to our members.

The following day I received a telegram in reply to that.

MR. FREEDMAN: Just a moment, Mr. Underwood. Will you mark these, please.

(Telegram dated August 4, 1952, from Underwood to Maloney, was marked Exhibit P-42 for identification.)

(Telegram dated August 5, 1952, from Maloney to Underwood, was marked Exhibit P-43 for identification.

MR. FREEDMAN: P-42 is a copy of a telegram dated August 4, 1952, from Mr. Underwood to Mr. Maloney.

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-42 and I ask you whether that is the telegram that you sent to Mr. Maloney? A. Yes.

Q. Will you please read it? A. It is dated August 4, 1952, addressed to Mr. William E. Maloney, General President, International Union of Operating Engineers, 1003 K Street, N.W., Washington 1, D. C.:

[356] "We intend to submit any proposal of the contractors to our membership Stop Your position in this matter is not clear to us Stop Please specify exactly what it is you desire me to submit to membership and state the terms of the settlement which you advocate Stop A meeting of our Executive Committee is scheduled for tonight August 4 Stop Membership meeting is scheduled for tomorrow Stop Please wire immediately in time so that it can be submitted to Executive Committee tonight and to membership tomorrow."

Signed Roy J. Underwood.

Q. Did you get a reply to that telegram, Mr. Underwood? A. Yes, sir, the following day, I believe.

Q. I show you P-43 and ask you whether that is the reply that you got from Mr. Maloney. A. Yes, sir, this is it.

[357] Q. Will you please read it to the Court. A. This is the telegram dated August 5, 1952, addressed to Roy J. Underwood, Business Manager, Local Union 542, 121 North Broad Street, Philadelphia.

"Your telegram received this morning August 5. You are well acquainted with the proposal of the contractors and the only differences of opinion are the questions in the agreement you now have with the independent contractors which are as follows:

"Last part of paragraph 2 of Article 3, construction definitions, on page 4. The wording of handling steel and stone in Article IV, wages and conditions applicable to building construction; the question of interpretion of Section 16 and Page 10 and the addition of the word piledriver in wage scale in Article V on Page 11; also section 14 and Page 16 which is a question of interpretation and the question of handling steel and stone on Page 17 under wage scale; also, Section 14 and Page 22 needs to be interpreted.

"The contractor has agreed to consolidate the funds of the welfare funds without a lawsuit [358] and without going to court and costing the local union any money to settle this dispute.

"These differences in my opinion are not sufficient to cause a protracted strike of over three months.

"I am in receipt of a telegram from the building and construction trades council of Philadelphia informing me that there are 6500 of their members who are out on strike on account of the action of our Local in Philadelphia. I hope Local #542 acts favorable on this question and immediately so we can let the other 6500 men that are walking the streets have an opportunity to make a living for themselves and their families. Please notify me immediately the results of your meeting."

Signed William E. Maloney, General President.

Q. What happened after that, Mr. Underwood? A.

I attempted to interpret the questions raised in the telegram of Mr. Maloney and attach that to the telegram and present it to the membership. That is the clarification that I attempted to work out and present to the membership at a meeting held the following evening, [359] August 5, or, I should say, the same evening that the telegram was received, August 5.

MR. FREEDMAN: Will you mark this, please.

(Paper headed "Telegram Received from William E. Maloney—8/5/52" was marked Exhibit P-44 for identification.)

MR. FREEDMAN: P-44 is a copy of a paper marked at the top "Telegram Received from William E. Maloney—8/5/52.

By MR. FREEDMAN:

Q. Will you identify this and explain it to the Court, Please, Mr. Underwood. A. Yes, sir. These are certain notations I made to present to the membership at the meeting of August 5 for the purpose of clarifying as much as possible the various articles referred to in his telegram of August 5.

MR. FREEDMAN: Does Your Honor want to hear those, sir?

THE COURT: You try your case in your own way.

By MR. FREDMAN:

Q. Will you explain the differences in those several sections, please, Mr. Underwood, as you outlined it to [360] the membership. A. Where it appears in the telegram, "Last part of Paragraph 2 of Article 3 Construction definitions, on page 4," I interpreted that to mean Section 2 in the independent agreement, which reads as follows:

"Highway Construction—Highway construction shall include sewers, culverts, roads, streets, water pipes and duct lines, curbs, gutters, sidewalks and

pipe lines, and the excavations for all of the foregoing. This shall not include construction within the area of refineries or other plant installations."

I am sure this won't make much sense. I used this to refer to, to remind the members of what he was referring to, or explain to the members what section I thought he was referring to in the telegram.

Q. Does that have to be read in conjunction with the agreement itself? A. Yes. When they come to these various articles you can only tell the members what that article says, but there is no indication of what's to be done with the article.

Q. Will you go on from there, Mr. Underwood, and tell us what happened. A. Well, at the meeting of August 5—

Q. Which meeting are you talking about? A. Well, I believe it was an Executive Board meeting called before the regular meeting.

Q. By whom was that attended? A. The meeting was held, and it was attended by all of the members of the Executive Board. Possibly Mr. McDonald was at that meeting, but I am not certain of that. I think he was present.

The Executive Board recommended that the proposal submitted by Mr. Maloney be rejected.

We then held the regular meeting of the membership that evening. In attendance at that meeting were Mr. Wharton, representing Mr. Maloney, and Mr. McDonald representing Mr. Maloney.

I presented the telegram from Mr. Maloney to the membership. I explained it to them as best I could what these various articles referred to as they were referred to in the telegram. I would read off from our independent agreement or from the notations taken from the independent agreement as to what that referred to.

I invited Mr. Wharton to get up and speak. He was there representing the General President. He did get up

and talk to the membership briefly and urged them [362] to accept the proposal or the request of Mr. Maloney.

Mr. McDonald got up and spoke and pointed out how the Local had made progress and how the strike had been conducted successfully and that he felt that we had been on the verge of winning the strike, but he said, "We have reached the point now where the General President has issued a request," and he said, "I can only urge you to comply with it."

It was discussed on the floor by the membership, and ultimately it was rejected by a vote of the membership.

Another motion was introduced on the floor requesting Mr. Maloney to come into the local union in Philadelphia and explain to them why he had requested them to accept this proposal. That motion was adopted, and when I tried to call Mr. Maloney the following morning to advise him of what action had been taken by the union—although Mr. Wharton was to report back to him—I couldn't reach him, and they told me in the office in Washington they didn't know when he could be reached and expected him to be away for about two weeks.

MR. FREEDMAN: Mark this, please.

(Memo to Mr. Maloney from Mr. Wharton, [363] dated August 7, 1952, was marked Exhibit P-45 for identification.)

MR. FREEDMAN: P-45 is a document consisting of four pages, dated August 7, 1952, entitled "Memo to Mr. Maloney from Mr. Wharton."

By MR. FREEDMAN:

Q. Mr. Underwood, would you be good enough to read that to the Court, that P-45? A. This is dated August 7, 1952, memo to Mr. Maloney from Mr. Wharton.

"As directed, I went to Philadelphia, August 5th. I arrived about 4:00 P. M. After checking in at the hotel, I went to the office of Local Union No. 542 in an attempt to contact Business Manager Underwood and Vice President McDonald. I felt it advisable to let

them know I was in town rather than just go to the meeting that night.

"Business Manager Underwood and Vice President McDonald were both out of the office at the time. The office secretary tried to locate them, but was unsuccessful. I started to return to the hotel and as I was leaving the building, I met Business Manager Underwood, who requested I return [364] to his office with him. We discussed the entire problem at some length. During our discussion, Underwood received a telephone call which lasted about half a minute. I am quite sure it was from Vice President McDonald, informing Underwood that I was in town. Underwood has several offices on the same floor, which are not connected to his main office. His secretary did not know we were in the building, and my assumption that Underwood was talking to McDonald was based on the short and nervous conversation, and Underwood's replies, which seemed to be 'Yes, I know,' and 'Yes.' That ended the conversation.

"I advised Underwood that I was there to visit him and the Local Union and not to enter into any discussions at their meeting. I further advised him that it was our desire to be helpful. He stated he was sorry for the misunderstanding between General President Maloney and himself, that he was not in any way trying to defy the International, that he felt there were factors which the General President was unfamiliar with, and if he thoroughly knew the background, Underwood thought the General President could readily see his [365] position. He further stated that it was very bad that Carter came into the picture. He said, 'You know how stories go around about the way things are done in New Jersey,' and when Carter came in, those stories likewise had their effect.

"About this time I noticed a rather nervous attitude developing in Underwood, and I excused myself

by saying, 'Roy, I know you have a lot of things to get ready for your meeting,' and that I would see him at the meeting.

"I returned to the hotel and then went to the meeting at 7:30 P. M. Upon arriving at the meeting, I ran into a number of men that I knew. I do not recall their names, but having seen and talked to them many times, they were a bit free to talk. There seems to be considerable unrest, and they think it is foolish that the fight is being carried on. It appears that the main reason that it is receiving as much support as it is, is because of the promise of the retroactive pay.

"Vice-President McDonald arrived about 8:00 P. M. He said that he had learned that I was [366] in town. Business Manager Underwood arrived at 8:10, and the meeting was finally called to order at 8:45 P. M. The meeting followed the regular form. After the reading of the minutes and the minutes of the executive board, the motion was made to dispense with the regular business and go into the problem of the strike.

"The Executive Board had held a meeting on the previous evening, and made a recommendation along the following lines: That if there was any interference from the International Union, that the matter be placed in the hands of their attorney for appropriate action. The minutes were approved unanimously by the body. From the roll call of the members present at the Executive Board meetings, it was noted that Vice-President McDonald had been present at some of these meetings. I am not sure he was present at the one where the action was taken to place the matter in the hands of their attorney.

"Business Manager Underwood then proceeded to introduce me, stating that a representative from the General Office was present, the assistant [367] to the General President. He stated he did not know

why I was there other than to see what was going on and how the meetings were conducted. He stated he wished the membership to extend the courtesy to me, and 'Perhaps Brother Wharton himself might like to say a few words and tell the membership why he was there.' I had previously told Brother Underwood, when he asked me if I wished to talk, that I had no desire to talk to the meeting. He said 'Okay, I will introduce you.' I said 'That will be fine. I will acknowledge the introduction.'

"Following the introduction, considering the type it was, I felt it necessary that I say something to the membership. I made my remarks brief and pointed, stating that General President Maloney had asked me if I would like to take a ride up to Philadelphia that afternoon and visit with the Local Union and attend their meeting, as they have several problems with their employers, and that it might be well to see the picture at first hand. I stated that it was the desire of the General President to be helpful to their Local Union [368] in bringing about a satisfactory adjustment of their problem. I stated that the problems of the Local Union were of the utmost importance to the General President, as they were to the membership of the Local Union, but in administering the affairs of an organization of some 200,000 members, sometimes these problems must be approached from a different viewpoint. I further stated that the only interest of the General President was to be helpful to the Local Union, and that any suggestions made for a settlement were made with that thought in mind.

"Business Manager Underwood then proceeded to review the case history of the dispute, beginning at the time of the lawsuits, making no reference to the basic question which was responsible for the present trouble; the question of the one or two year agreement. He outlined all steps, including the period of Brother Carter's activities and he conducted himself,

stating that Carter spent most of his time [illegible]h the contractors and attemped on several occasio[illegible] get Underwood, Halloran and himself alone in [illegible] room. He stated that the major cause of the [illegible] problems with the contractors came about because of the previous method of dealing and making of agreements. He stated that he did not deal that way, and that he never would.

"This reference to previous dealings, I assume was directed at the period when Brother Jasper White was supervisor of the Local Union.

"He reviewed the meeting held with you in Chicago, and made reference to everybody involved being available, apparently by prearrangement unknown to him. Your telegram outlining the several points of differences was read by Underwood, and each point was taken up by reading it from the agreement.

"Underwood stated that a total of some five hundred independent contractors had signed the agreement, over a hundred of them being from the Philadelphia area, and in fairness to them, he could not recommend any change in the basic agreement, and would not recommend to the membership the acceptance of the proposal.

"He stated that if the contractors agreed to sign the basic agreement, and agreed to the [370] transfer of the welfare funds, that the other matters could possibly be adjusted by arbitration. He further stated that he did not want to be in the position of defying the International Union, but his conscience would not permit him to do anything other than demand the signing of the same basic agreement as signed by the independent contractors.

"Vice-President McDonald then took the floor, reviewing the condition of the Local Union when he came to Philadelphia about five years ago, stating

that the groups were fighting each other, and that since he has been there, Brother Underwood had worked for the best interests of the membership; that they had worked together Saturdays, Sundays, and long hours into the night developing the Local Union, which is now the best Local Union in the East. He further stated that he did not like to see the Local Union return to what had previously existed.

"He reviewed the amount of pressure that was being put upon the General President to get the matter adjusted, stating that pressure had been brought by Secretary of Labor Tobin, Attorney McGrath, and the AGC and many AGC contractors.

[371] "He then stated, after these preliminary remarks, that the General President had directed that the strike had gone on too long, and must be settled or a new charter would be placed in Philadelphia. This, of course, was the bomb shell. A howl went up among the members, with many of the requesting the floor.

"A motion was made that a special meeting be called and President Maloney be directed to come and appear before the meeting. There was much discussion, and Business Manager Underwood put the motion that the General President be invited to come to a special meeting. Further discussion was held and the motion was passed unanimously by a rising vote. It was further requested that when the General President came that the Board would meet him before the meeting. Business Manager Underwood said that was understood.

"After a brief discussion, Vice-President McDonald requested that a committee meet with General President Maloney. There was much discussion on this proposal and it was formally put in the form of a motion and was voted down. The [372] discussion on these motions brought out the understanding

that the strike against the present group of contractors would continue until such a meeting was held.

"In looking over the seating arrangement, which contained three sections, each of the side sections provided seats for two hundred; the center section for three hundred seventy-five, I would estimate there were between five hundred fifty and six hundred present. There was also present during the meeting, approximately ten members of the Maritime Union, which is furnishing many of the pickets. Just prior to the adjournment of the meeting, the leader of this group addressed meeting and pledged support to the strike. The members of the Maritime Union who were present were requested to stand so that the membership might see them, and they were extended a rising vote of thanks.

"After the meeting adjourned, during a small discussion which included the leader of the Maritime group, he stated that now as a fight with the International seemed to be about to develop, [373] and if such a fight should come to pass, their position may have to be altered. However, until such time as there was some change, Local Union No. 542 would continue to have their support.

"I left the meeting hall around twelve midnight and returned to the hotel, and left Philadelphia the following day."

Q. Did Mr. Maloney ever accept the invitation to address the membership? A. No, sir, he did not.

Q. Did the membership act on Mr. Maloney's proposal, that is, his telegram? A. Yes, sir, they did.

Q. What was their action? A. They voted to reject it.

Q. What occurred after that? A. The following day I met Mr. McDonald as usual in the Union Office, and he told me he was very discouraged about the position that had been taken by Mr. Maloney in our strike, and he said

that he was thinking about doing something himself to see if he couldn't get the contractors informed as to what was actually going on between the Local Union and the contractors' representatives. [374] He discussed it at length with me and said that he was going to work on a draft of a letter of some kind or communication of some kind to send out to the contractors.

The following day Mr. McDonald came into my office in the afternoon from his space in the other office and told me he had completed a draft of a letter which he wanted to send to the employers. He said that it was quite evident that they did not know about the negotiations taking place between the Union, nor were they familiar with the fact that the contractors' representatives were not negotiating with the Union representatives. He read off to me a draft of a letter which he said he had prepared and wanted to send it to the—at first he wanted to send it, he said, to the association directors, Board of Directors, of the three associations.

After he got through reading it he asked me how it it sounded. I said it sounded very good to me and certainly everything in it was true and that it might produce some results.

He suggested to me that I call our lawyer, you, Mr. Freedman, and have you come over the office if possible and look at this letter and possibly make some suggestions that might be helpful.

[375] I did call your office and you came over immediately. You told us when you came in, I recall, that your wife was over there, that you had an appointment to go out with her that evening, and therefore you didn't intend to stay too long.

Mr. McDonald, I believe, showed it to you or read it to you, this draft of the letter, and asked you if you could make any suggestions, and I believe you did suggest a few changes. They were minor changes, however, and there was considerable pride of authorship being evidenced by

Mr. McDonald with that letter at that time, where at one point I recall, where he said, "I suggest that you do certain things," you said, "why don't you say, 'I strongly suggest that you do it,' " and so forth.

[376]. In any event, Mr. McDonald was then very anxious to get this letter out and it was rather late in the evening. The office personnel had gone home, with the exception, I believe, of my secretary, Miss Fitzpatrick, and we were trying to arrange to get the letters typed that night.

So you called your office. Your wife came over, a friend, I believe, and then one or two girls from your office started typing these letters, because Mr. McDonald then, after reading the letter again and again, decided that it should go to many of the contractors in addition to the directors of these three associations.

Well, they started typing these letters and the letters were prepared. Mr. McDonald was signing them and the letters were mailed that night. They were mailed to about 60 employers, I believe.

MR. FREEDMAN: Will you mark this?

(Carbon copy of two-page letter dated August 7, 1952, addressed "Dear Sir," signed John J. McDonald, was marked Exhibit P-46 for identification.)

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-46 and I ask you—

MR. FREEDMAN: P-46 is a copy of a letter on the stationery of the International Union of Operating Engineers, John J. McDonald, Third General Vice-President, dated August 7, 1952, signed by Mr. John J. McDonald.

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-46 and I ask you whether that is the letter that you refer to that was sent out by Mr. McDonald. A. Yes, sir, that is.

Q. Will you please read it to the Court?

* * * * * * *

[378] Q. Mr. Underwood, I believe at the close of the morning session you had testified that P-46 was a copy of a letter which Mr. McDonald had sent out to certain contractors. A. That's right, sir.

MR. FREEDMAN: Will you mark this the next exhibit?

(Carbon copy of four-page list was marked Exhibit P-47 for identification.)

By MR. FREEDMAN:

Q. P-47 is a list of contractors. Mr. Underwood, I ask you to examine P-47 and state whether or not the letters which were sent out were sent out to the names on that list.

THE COURT: P-46 is the McDonald letter of August 7, '52?

MR. FREEDMAN: Yes, sir.

THE COURT: And P-47 is a list of contractors to whom the letter was addressed?

[379] MR. FREEDMAN: Yes, sir.

THE COURT: Do I understand that correctly?

MR. FREEDMAN: Exactly, sir.

A. Yes, sir, that is the list.

By MR. FREEDMAN:

Q. Who were those contractors, Mr. Underwood? A. From the General Building Contractors Association there was William L. Beck—shall I read the address in here, too?

Q. You don't have to go through all of them. I would just like you to state to the Court whether they were members of the associations, and, if so, which associations. A. Oh, yes. They were members of the General Building Contractors Association,—

Q. Were they just members or were they also officers of those associations? A. They were also members of the Board of Directors of the various associations.

Q. Which associations do you have reference to?

A. The General Building Contractors Association, there were officers and possibly certain prominent contractors who were affiliated with the General Building Contractors Association.

The Contractors Association of Philadelphia. [380] There were both officers and members of that association on the list. And the Pennsylvania Excavators Association, there were likewise both officers and members of that association.

Q. And they were the three Philadelphia associations against whom the strike was directed? A. Yes, sir.

Q. All right, Mr. Underwood, would you tell us what happened after that letter went out? A. After that letter went out Mr. McDonald arranged for a suite in the Broadwood Hotel where he was to meet the contractors in response to this request he sent out. He was arranging to meet with them on Monday, August 11. He called me on Friday evening—

Q. That letter, his letter, is dated when, August 7? A. August 7.

Q. What day of the week was that, do you recall? A. I believe it was Thursday.

Q. Thursday, August 7? A. Yes.

Q. And this date that he called you was when? A. He called me Friday evening.

Q. That would be the next night? A. Yes, the day following the date the letter was sent out, [381] and told me he had received a number of calls from contractors and had made arrangements to meet with them on August 7 at the Broadwood Hotel.

Q. Did he have offices set up there? A. Yes, he engaged a suite in the Broadwood Hotel.

He called me two or three times about it. As they were calling him he would give me a call and say that somebody else called. He mentioned, among others, Austin Meehan, John Meehan's son, and Hawthorne and some others. I don't recall their names now, all of them. But I believe it was Saturday evening he called me and he was

very excited and said he had just received a call from Mr. Maloney, who had ordered him to get out of the hotel and not to meet with any contractors. I asked him—

Q. That was two days after the letter went out? A. That's right, sir.

Q. That would be what, August 9? A. The 9th, yes, sir.

Q. Go ahead. A. I asked him where he was going and he said he didn't know. And he was obviously frightened and he certainly sounded as though he was frightened. And he said that, "I'll get in touch with you as soon as I get located." So I believe he called me on Sunday, I am not certain of it, [382] but I believe he did call me again and told me about taking care of the hotel bill at the Broadwood. In any event, that was taken care of by the Local Union.

So on August 11, of course, he didn't appear. I asked him at that time if he was going to notify the contractors whom he had called that he would not be there, and he said he would try to get word to them.

On August 11 the Building Trades Council of course began their strike against the Operating Engineers, refused to work on any job where the Operating Engineers were employed. On the same day Mr. Wharton walked into the office and handed me a paper which was described as an order from General President Maloney instructing me to return all men to their jobs within 24 hours.

I immediately called our lawyer, Mr. Freedman, and asked him whether anything could be done to prevent the enforcement of such an order against the Local Union, and whether Mr. Maloney could be prevented from legally, prevented legally from requiring the members of the Union to return to their jobs.

He said he thought that under the circumstances that something could be done, and that the order should be tested and could be tested in court.

I called as many as I could reach at that [383] time of the day, which was probably only one or two members

of the Executive Board, and told them what had taken place. I then went to our lawyer's office, Mr. Freedman, and conferred with him about the situation, and from his office I made several calls in the evening to other members of the Executive Board and acquainted them of this new development.

Mr. Freedman began preparing a bill of complaint to be filed in the federal court. During the evening I believe there were two or three members of the Board who came down to the office and came in and out, were there briefly, and they in turn were calling other members of the Board such as I was and discussing the matter. In several instances I told them what our lawyer had advised, that he felt that we would be able to prevent Mr. Maloney from enforcing this order against the membership, and that under any circumstances it was pointed out that the order couldn't be complied with because it was impossible to get word to members in 24 hours.

Most of the night was spent on preparing this bill of complaint. I had, however, throughout the evening, arranged with the members of the Executive Board to hold a meeting the following morning at 8 o'clock at the Broadwood Hotel, a meeting of the Executive Board. At that meeting I had with me a rough draft of the bill of complaint and [384] explained to them again what had happened, told them what our lawyer had advised, and we then discussed the bill of complaint.

I read off the various provisions of the bill of complaint of this rough draft and after some discussion—I believe the meeting lasted about an hour and a half—they voted unanimously to proceed with the action and instructed me to file the action in the court.

Q. This was when, Mr. Underwood? A. That was on August 12, the morning of August 12.

As a result of that directive from the Executive Board, the action was filed in the District Court on August 12. A hearing was held I believe the following day, and just as the hearing started it was suggested that we retire to

the judge's chambers, the chambers of Judge Grim, and discuss the situation.

We spent about two days in Judge Grim's chambers, where he attempted to hammer out some agreement that would be acceptable to both sides and succeeded in doing that. At the end of those two days a stipulation was entered into, signed by all the parties, I believe, in the case,—

Q. Was it signed on behalf of Mr. Maloney? A. Yes, sir.

[385] Q. By whom? A. By Mr. Rhoads, I believe, his attorney.

This stipulation provided that all of the issues be submitted to arbitration—

MR. O'BRIEN: That is objected to, sir. The stipulation speaks for itself. It is the best evidence of what the stipulation sets forth.

THE COURT: It is, but I will let him generally describe it in narrative form.

A. With the exception of the back-pay issue. That was withdrawn by the Union under threat of imposing supervision on the Local Union unless it was withdrawn. All the other issues were submitted to the membership and Judge Grim's proposal was accepted at that meeting and the men voted to return to work the following morning.

That meeting was held on August 18. After the men had returned to work, on August 19, I contacted our lawyer, Mr. Freedman, or he contacted me, and together we went down to the court to report to Judge Grim that the men had returned to work.

We returned from the court and when I returned to the office or was returning to the office I met Mr. McDonald at Broad and Arch Streets. That is just a half block from our offices. He suggested that we stop in and have a sandwich and some coffee and discuss what had taken place. That was at the Lafayette Hotel. We had been in there for probably a half or three-quarters of an hour when a call was received by Mr. McDonald. He came back to me after

he had been on the telephone for a couple of minutes and told me I had better get up to the Local Union office, something had happened up there. I asked him what it was and he said, "I don't know, but you better go up there right away."

So I immediately went up to the office. When I walked into the office I saw several of these characters, some of whom I recognized, some of whom I didn't, draped around the office, sitting on the side of desks. Mr. Wharton was sitting behind the desk I normally occupied, and there was Peter Weber from New Jersey 825, there was William Carter, also from 825, there was John Carter from Local 825, there was a man named Smith, a business agent from 825, there was another agent named Duffy from Local 825,—

Q. That is the New Jersey Local, is it not? A. Yes, sir. And there were two others whom I didn't recognize.

As I walked into the office there were a couple of them standing in the outer office, and one leaning against a desk and another leaning against a wall, and [387] as I walked in, this Smith, the agent from 825, was sitting on the side of the desk, one leg on the floor, the other draped on the side. He had his coat back holding it back with his hand about in the area of his hip, I saw the gun and shoulder holster exposed.

When I walked in, Mr. Wharton handed me this order, an order of supervision, and simply said, "Here's an order for you, you are under International supervision and I am the supervisor."

I told him, "Well, I am going to make a telephone call."

I started over to get the phone and one of these other persons who was with him came over and he pulled his coat back and stood in front of me. Wharton had previously said, "No phone call." And he stepped in front of me and pulled his coat back, exposing the gun, and shook his head no.

So I turned around and went out and made the call

from outside down in the lobby of the building. And I called our lawyer, Mr. Freedman, and told him what had developed. Of course, he suggested I come over and discuss the matter with him, and it was decided then that the only thing to do was to go through with the procedures prescribed in the constitution, file an appeal and recognize the order |388| as of that date, and that is what was done.

(Two-page document dated August 11, 1952, was marked Exhibit P-48 for identification.)

MR. FREEDMAN: P-48 is the General President's Instruction Terminating Strike. It is dated August 11, 1952, and signed by Mr. Maloney, addressed to "Officers and Members of Local 542 and Branches."

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-48 and ask you whether that is the order that was given to you by Mr. Wharton. A. Yes, sir, this is the order of August 11.

Q. When was that given to you? A. That was given to me, I believe it was in the afternoon.

By THE COURT:

Q. That would be Monday? A. Sir?

Q. That would be on a Monday? A. Yes, sir. Yes, I believe it was in the afternoon, maybe 2 or 2:30. I am not sure of the time now.

By MR. FREEDMAN:

Q. You mentioned a strike that had been called by the Building Trades Council. Did that come to your attention in the form of any written documents?

MR. FREEDMAN: Will you mark this?

|389| (Carbon copy of notice dated August 13, 1952, was marked Exhibit P-49 for identification.)

MR. FREEDMAN: P-49 is a notice dated August 13, 1952, from the M. W. Kellogg Company.

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-49 and ask you whether you saw that before, and, if so, when it came to your attention. A. Yes, I have seen this before. It came to my attention sometime during that week of August 11. I imagine about August 14.

Q. Did you receive any other form of official notice that the Building Trades Council had struck the jobs? A. No, sir, not to my recollection.

Q. Will you read that order to Judge Clary, please, or the noitce, I should say. A. The notice is dated August 13, 1952, and it is headed "Notice"—

MR.O'BRIEN: Excuse me. If Your Honor please, that is objected to. That is a document which was not put out by us. It is not tied into the defendants and we really know nothing about it.

THE COURT: Well, it is part of the narrative of the entire picture, and for that reason I will let it in. Overruled.

[390] A. It says:

"Due to the strike of various crafts it is necessary to delay work on our job and furlough our construction employees.

"As soon as the Union difficulties are straightened out the job will be resumed and all present employees will be welcomed back."

Signed M. W. Kellogg Company.

[391] By MR. FREEDMAN:

Q. Were they one of the contractors with whom you were in contractual relationship at that time? A. Yes, sir, they were.

MR. FREEDMAN: Mark this, please.

(Notice from the Management of the Walsh-Perini-Groves-Slattery Companies was marked Exhibit P-50 for identification.)

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-50 and I ask you to identify that for the Court, please. A. Yes, sir. That is a similar notice which was sent in or brought in to the Union meeting at, I imagine, about the same date as the previous notice was received.

Q. Will you read it to the Court, please?

O'BRIEN: The same objection, sir.

THE COURT: The same ruling.

A. "Through no fault of the contractor your employment is being terminated due to all other crafts of the A. F. of L. refusing to work with members of the Operating Engineers Union, thereby shutting down our job, until further notice."

Signed Management Walsh-Perini-Groves-Slattery Companies.

[392] Q. Did they hire many of your engineers at that time? A. Yes, sir, they hired several hundred.

Q. Were you in contractual relationship with those companies at that time? A. Yes, sir.

Q. Where were their operations or projects going on? A. They had the project at the Fairless Steel plant.

MR. FREEDMAN: Mark this, please.

(Letter from George Meany, on the stationery of the American Federation of Labor, to Mr. Maloney, dated August 13, 1952, was marked Exhibit P-51 for identification.)

MR. FREEDMAN: P-51 is a letter from Mr. George Meany, on the stationery of the American Federation of Labor, dated August 13, 1952.

MR. O'BRIEN: Addressed to whom?

MR. FREEDMAN: Addressed to Mr. Maloney.

By MR. FREEDMAN:

Q. Mr. Underwood, will you please be good enough to read that letter to the Court? A. This letter is addressed

to Mr. William E. Maloney, President, International Union of Operating Engineers, 1003 K Street, NW, Washington, D. C.

[393] "Dear Sir and Brother:

"This is to officially inform you of the resolution uanimously adopted by the Executive Council of the American Federation of Labor, at its meeting held in Atlantic City today:

"The Executive Council of the A. F. of L., having been advised in the circumstances and having reviewed the history of the strike of the Engineers in Philadelphia and the involvement of the Building Trades therein, hereby commends the efforts of William E. Maloney as General President of the International Union of Operating Engineers, to effectuate a settlement of this strike."

"Fraternally yours,
George Meany,
Secretary-Treasurer,
American Federation of Labor."

Q. Did you read the date of that, Mr. Underwood? A. It is dated August 13, 1952.

MR. FREEDMAN: Mark this, please.

(General President's Order Invoking International Supervision Over Local Union 542 and Branches, dated August 19, 1952, was marked Exhibit P-52 for identification.)

[394] MR. FREEDMAN: Plaintiff's Exhibit 52 is the General President's Order Invoking International Supervision Over Local Union 542 and Branches. It is signed by Mr. Maloney. It is addressed to the Officers and Members of Local Union 542 and Branches, Attention Roy J. Underwood, President and Business Manager, and to all those to whom this letter may concern, and it appears to be dated August 19, 1952.

By MR. FREEDMAN:

Q. Mr. Underwood, I ask you to examine that exhibit and state whether or not that is the order that was served on you, as you testified before. A. Yes, sir, this appears to be the same order.

Q. Is that date August 19 the correct date when it was served? That was the date that you had returned from court, from Judge Grim's court, after announcing the termination of the strike? A. Yes, sir, that is right.

Q. Mr. Underwood, at about that period did the Maritime Trades Department withdraw their support also? A. Yes, sir. It might have been a day or two prior to this, but I think it followed the order of August 11 issued by Mr. Maloney requiring the men to return to work [395] within twenty-four hours.

Q. It followed that? A. It followed that. I think it was the following day when they withdrew their support.

Q. Did all of these three developments take place following the order of August 11, that is, the strike of the Building Trades Council, Mr. Meany's letter, the resolution of the American Federaltion of Labor over the signature of Mr. Meany, and the withdrawal of support of the Maritime Trades? A. Yes, sir. The strike of the Council occurred the same day the order was issued, delivered to me, and these other events took place after the order was issued, within a day or two.

Q. Mr. Underwood, prior to the time the Building Trades Council announced that strike was there any unemployment, so far as you were able to see, among the Building Trades Department? A. No, sir.

Q. Now, in the order of supervision, invoking supervision, that you have before you, Mr. Underwood, I think there is a clause which fixed a date for hearing. Is that what it says? [396] A. Yes, sir, the last paragraph.

Q. What is the date of the hearing. Read it, will you, please. Perhaps that would be best.

MR. O'BRIEN: If Your Honor please, if the

witness is going to read any portions of that order, I would ask that he read the whole order.

MR. FREEDMAN: I have no objection. Read the whole order, Mr. Underwood.

THE COURT: Well, at last we are in agreement on one thing. Let us have the order.

[This order appears at p. 36a as Exhibit 2-E to the Amended Complaint and is not here reprinted.]

* * * * * * * *

[403] Q. Were you suspended pursuant to this order on August 19, Mr. Underwood? A. Yes, sir.

Q. Of 1952, that is? A. Yes, sir.

THE COURT: "Were you?" What do you mean by "you"?

MR. FREEDMAN: I meant Mr. Underwood himself as an officer.

THE COURT: All right.

By MR. FREEDMAN:

Q. Were you permitted to engage in any of your activities as an officer of the Local Union? A. No, sir.

Q. Did you attend the hearing fixed for August 26, 1952, as outlined in this notice of hearing in the order that you just read, in Washington? A. Yes, sir.

Q. Will you state who else was in attendance on that day, please? A. There were several who accompanied me to Washington from Philadelphia. There was Jerry Leone, Peter Pantaleo, Vernon Brightbill, Harry Lavery, James Russell, Michael [404] Concordia, Colombo Acchione, possibly others. I am not sure at the moment.

Q. Who presided over the meeting? A. Mr. Carter opened the meeting, and then it was immediately taken over by Mr. Thomas, the General Counsel.

Q. Does that order state who is to be the deputy at the meeting? A. No, the order doesn't state.

Q. Who appointed Mr. Carter as chairman of the meeting? A. Mr. Maloney.

Q. Was there anybody else there from the International? A. Just Mr. Carter and Mr. Thomas, the General Counsel.

Q. In addition to the delegation that came up from the Local Union? A. No, sir.

Q. I say, present were those gentlemen, Mr. Carter and Mr. Thomas for the International, and the remainder consisted of the men who came up from Local 542 with yourself? A. That is correct, yes, sir.

Q. Will you tell us what happened at that meeting, please? A. Well, the meeting, Mr. Carter opened it up, and [405] I believe he read a letter appointing him, a letter from Mr. Maloney to him appointing him as the hearing officer of that meeting.

Q. That was William E. Carter, wasn't it? A. That's William E. Carter, yes, sir.

He then turned it over to Mr. Thomas, the General Counsel of the International Union.

Mr. Thomas began asking questions about what had occurred in Philadelphia, and he asked a couple of questions, and I said, "Well, we would like to be represented by counsel, inasmuch as General Counsel of the International is here to interrogate us, and I am making that request. I also feel that we should have a stenographic record of what takes place."

"Well," he said, "they are both denied and they won't be permitted."

So he started asking questions. He had a yellow ruled pad in front of him and a pencil, and from time to time when he would ask questions he would make notes. He would ask me questions about the strike, if we had a strike, and how long it had lasted. Then he started to ask me something about the Maritime Trades participating and how much money was spent by the Local, and at that point I told him that I was going to decline [406] to answer any further questions unless we could bring in a stenographer or a court reporter and have a stenographic record made of the proceedings.

He said, "No, we will not permit it, and we will go ahead with this hearing."

He didn't ask me any further questions. He was making certain statements, and I was still declining to answer, and once in a while he would make some notes on the pad and other times he would not.

He then began questioning others who had accompanied me to Washington. He asked I suppose all of them there something, but they too had taken the position that unless we could have a stenographic record made of the proceedings, that we were not going to go ahead with them.

It lasted, I suppose, for, oh, fifteen or twenty minutes, possibly a little longer, but it was just about twenty minutes, I think when we left the meeting. I think Mr. Thomas said, "Well, if you are not going to cooperate here, why, there is no use prolonging the meeting," and the meeting was adjourned and we returned to Philadelphia.

Q. Was the purpose of the meeting announced at any time? [407] A. No, sir, only in the letter where he said he was appointed as a hearing officer.

Q. Now, were there any charges read to you or any of the other men at any time, charges against the Local in support of the imposition of supervision? A. No, sir.

Q. Had there been any charges preferred at any time prior to that time? A. No, sir.

Q. Have there been any charges preferred against the Local to support the supervision at any time before or since? A. No, sir.

Q. Did you have a trial or hearing in connection with the charges against you? A. Yes, sir.

Q. Were charges placed against you? A. Yes, sir, they were.

Q. When and by whom? A. Charges were placed against me within a day or two following this meeting in Washington on August 26 and they were filed against me by William E. Carter.

MR. FREEDMAN: Will you hold it for just a second until I find those charges, please.

[408] MR. FREEDMAN: Will you mark this.

(Photostatic copy of Document from William E. Carter to the General Executive Board was marked Exhibit P-53 for identification.)

MR. FREEDMAN: P-53 is a communication from William E. Carter designated as Hearing Officer, addressed to the General Executive Board in Washington. It is entitled "In Re Local Union 542, International Union of Operating Engineers, Philadelphia."

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-53 and ask you whether this document represents the charges which were filed against you by Mr. Carter. A. Yes, sir, this is a copy.

Q. Were they the only charges filed against you? A. Yes, sir.

Q. Will you read them to the Court, please?

[This letter appears at page 15a as Exhibit 1 to the Amended Complaint and is not here reprinted.]

* * * * * * *

[411] MR. FREEDMAN: If the Court please, at an appropriate time I have a copy of the stipulation that was entered into, but not signed. I think that that is probably in the court records and I can introduce that at a later time, sir. I just wanted to call attention of that to Your Honor.

THE COURT: Well, if you give the term and the number of the case to Mr. Greenwood he can see that the file is brought into this courtroom.

(Discussion off the record.)

By MR. FREEDMAN:

Q. Mr. Underwood, before we leave the question of supervision, was there an appeal filed from the order invoking supervision? A. Yes, sir, there was.

MR. FREEDMAN: Will you mark this, please.

(Document entitled "Appeal From The Order of General President Invoking International Supervision

Over Local Union 542 And Its Branches" was marked Exhibit [412] P-54 for identification.)

MR. FREEDMAN: P-54 is a document entitled "Appeal From The Order of General President Invoking International Supervision Over Local Union 452 And Its Branches."

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-54 and I ask you whether that is a copy of the appeal which was filed from the order invoking supervision. A. Yes, sir, it is.

MR. FREEDMAN: Will you mark this, please.

(Document dated August 13, 1952, was marked Exhibit P-55 for identification.)

MR. FREEDMAN: P-55 is a notice dated August 13, 1952, with a typewritten signature of Thomas R. Martin, Erecting Engineer, from the Fryn Engineering Department of the Koppers Coke Company, addressed, "To Whom It May Concern."

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-55 and I ask you whether you can identify that as having seen it before. A. Yes, sir, I have, sir.

Q. When did that come to your attention?

(Discussion off the record.)

[413] By MR. FREEDMAN:

Q. Will you read it to the Court, please.

MR. O'BRIEN: Objected to.

THE COURT: I suppose it is the same kind of a notice. I will take it for what it is worth.

A. "To Whom It May Concern:

"On Monday, Aug. 11, 1952, at approximately 9:45 A.M. a delegation of business agents from various union locals in Philadelphia, Pa., visited my office and stated that as long as any operating Engineers were on my pay roll that the remaining crafts affili-

ated with the Building Trades Council; would not work on my project.

"Their spokesman was a representative of the Building Trades Council of Philadelphia, Pa., and at approximately 10 A.M. all crafts, excepting the Electricians, Ironworkers and Operating Engineers left the project."

Signed (typed signature) Thomas R. Martin, Erecting Engineer, Fryn Engineering Department, Koppers Company, Inc."

Also beneath that is written in pencil: "15 Maple Ave. [414] Trenton, New Jersey.

"28863."

Q. Was Koppers one of the companies with whom you were in contractual relationship? A. We were in contractual relationship with the Fryn Engineering Company on the job.

Q. And your engineers had actually been working on that job during the strike? A. Yes, sir.

Q. You were not on strike against that company? A. No, not at that point, no, sir.

Q. Now, Mr. Underwood, following the filing of these charges by Mr. Carter was there a hearing date fixed for you? A. Yes, sir, there was.

Q. Before we get to that, Mr. Underwood, after the stipulation was entered into before Judge Grim it was submitted to the membership for its approval, was it not? A. Yes, sir.

Q. Who addressed that meeting? A. I addressed the meeting.

MR. FREEDMAN: Will you mark this, please.

[415] (Transcript dated August 18, 1952, was marked Exhibit P-56 for identification.)

MR. FREEDMAN: P-56 is a transcript of a meeting of Locals 542, 542A, B, and C of the International Union of Operating Engineers, held at Town

Hall, Philadelphia, Pennsylvania, beginning at 8:00 P.M., Eastern Daylight Saving Time, on Monday, August 18, 1952.

By MR. FREEDMAN:

Q. Mr. Underwood, was that meeting reported? A. Yes, sir, it was.

Q. At whose direction was it reported? A. The reporter told me he had been sent in by Mr. Maloney.

Q. Did you permit him to take a transcript of the entire meeting? A. Oh, yes, sir.

Q. How many reporters were there? A. There were two.

Q. I show you P-56 and I ask you whether that represents a transcript of the meeting of what transpired at the meeting? A. Yes, sir, this is a transcript.

Q. As a result of your addressing the membership, they approved the recommendation of Judge Grim?

[416] MR. O'BRIEN: Objected to, sir.

MR. FREEDMAN: Well, I thought I needed it but it is obvious.

THE COURT: Sustained.

MR. FREEDMAN: Very well.

By MR. FREEDMAN:

Q. What did you tell the membership? What did you state to the membership regarding the stipulation recommended by Judge Grim, Mr. Underwood?

MR. O'BRIEN: Sir, that is objected to if there is a recorded transcript of the meeting.

THE COURT: Read the question back, Mr. Harris.

(The pending question was repeated by the reporter.)

MR. FREEDMAN: I think that is true. I will withdraw it, sir.

THE COURT: The transcript is here, but I will let him answer.

By MR. FREEDMAN:

Q. Following your address, did anyone else address the meeting? A. Mr. McDonald did.

[417] Q. Well, I think the transcript will show that, too. A. Yes, sir.

Q. Now, did the membership vote on the proposal? A. Yes, sir, they did.

Q. What was the vote? A. They voted to accept Judge Grim's proposal and return to work the following day.

Q. Getting back to the charges that were filed against you by Mr. Carter, was there a hearing held on those charges? A. Yes, sir.

Q. When? A. On September 17.

Q. Where? A. At the Commodore Hotel in New York City. It was 1952.

Q. Who attended that hearing, Mr. Underwood? A. Well, I attended along with several other members of Local 542 from Philadelphia.

Q. By the way, before you—

THE COURT: Let's put something in the record that you probably can tell us. Who were the two reporters of the Official Court Reporters?

MR. FREEDMAN: Mr. Bosta and Mr. Blumberg.

[418] THE COURT: All right.

MR. FREEDMAN: And they were engaged by the International, sir.

THE COURT: All right, I just wanted to show in the record who took it, because this transcript which has been marked P-56 does not indicate who of the Official Court Reporters took it. I wanted it in the record.

MR. FREEDMAN: I am correct about that, aren't I?

MR. WOLFE: I am not sure. I will take your word for it.

MR. FREEDMAN: I am positive that it was Mr. Bosta and Mr. Blumberg.

THE COURT: The matter can be checked, but I just wanted to know to whom to direct attention if there is any attention needed.

Thank you, Mr. Freedman.

By MR. FREEDMAN:

Q. Before we go further with that, with the details of that hearing, Mr. Underwood, did you file any answer to the charges which had been made against you by Mr. Carter? [419] A. Yes, sir, I did.

(Document marked Exhibit P-57 for identification.)

MR. FREEDMAN: P-57 is a document entitled "In The Matter of Charges Preferred by William E. Carter Against Roy J. Underwood." It is addressed to the General Executive Board of the International Union and it is an answer to the charges preferred by Mr. Carter.

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-57 and I ask you whether that is a copy of the answer which was filed in your behalf to the charges preferred by Mr. Carter? A. Yes, sir, it is a copy.

* * * * * * *

[423] Q. Mr. Underwood, you stated that a hearing was held at the Commodore Hotel in New York on September, what date was that? A. September 17, 1952.

Q. Would you tell us what happened on that day, please. Incidentally, on that date did you see Mr. Halloran in a hotel? A. No, sir, I did not.

Q. Go ahead. Tell us what happened on that day. A. The hearing began before the General Executive Board—Mr. Maloney, of course, Secretary-Treasurer Gramling, and the seven vice-presidents. Before it began, actually, Mr. Maloney got up and announced that he was appointing

Mr. Joseph Delaney, an International vice-president and member of the Board, as chairman of this hearing. Mr. Maloney then left, walked over to the side and sat down near the table where the Board was sitting.

Mr. Delaney then announced that they were ready to proceed with the hearing on charges filed with it against me, and I got up then and asked Mr. Delaney, that inasmuch as counsel was nearby ready to come into the hearing —counsel for me—whether or not he would be permitted to come in, and he said, "No, he will not."

I asked then if we could arrange to have [424] a stenographic record made of the proceedings, and he said, "No, you cannot. We will proceed with the hearing."

He then invited Mr. Thomas to get up and address the Executive Board.

Q. Who was present at that meeting, please? A. From Philadelphia there was—

Q. Well, give first to International people. A. Well, Mr. Maloney, the General President, Mr. Gramling, the General Secretary-Treasurer, Mr. Welsh, the Vice-President, Mr. McDonald, the Vice-President, Mr. Imhahn.

Q. When you say Mr. McDonald, you mean the same Mr. McDonald who had been assigned to your area? A. Yes, sir, Mr. John J. McDonald.

Q. And he was sitting in on the Board to decide the charges against you? A. Yes, sir.

Q. Go ahead. A. Mr. Converse, also a Vice-President: Mr. Stuhr, I believe, who was then a Vice-President; Mr. Delaney, the Chairman, serving as Chairman, Mr. Svanson, also a Vice-President.

I think I have named them all. I am not [425] certain. All of the vice-presidents were present.

Q. Who else was there from the International? A. Mr. Thomas, General Counsel for the International Union. Mr. Carter was there.

Q. Which Carter? A. William E. Carter, who filed the charges, and there were several others sitting in the

room, representatives from other Unions. There might have been others from the International, but I didn't recognize any. I don't recall any at the moment, anyway.

From Local 542 there were several members: Mr. Colombo Acchione, James Russell, Michael Concordia, I believe. I believe Gus Toppi, Homer Dawson, and others. I just can't recall their names at the moment.

Q. Tell what happened at that meeting, Mr. Underwood, please. A. Well, when Mr. Delaney began the hearing, he asked Mr. Thomas to get up and address the Board. Mr. Thomas had some papers in his hand and started out by telling them that this lawsuit had been filed in Philadelphia on August 12 and that he would demonstrate to the Board that it was in complete violation of provisions of the constitution, and he began—

* * * * * * * *

[430] Q. Will you continue, Mr. Underwood, and state what [431] happened at that meeting, please.

THE COURT: We are in New York now at the Commodore Hotel. All the vice-presidents are there, members of some other unions, Mr. Thomas, the General President, you, and you have named just one or two members from Philadelphia. Who were the others?

You just started, I believe, Mr. Underwood, to name one or two of your Philadelphia companions. Now, were there others?

A. I thought I named Jerry Leone, James Russell, Colombo Acchione, Michael Concordia, Homer Dawson. I believe there were others too; I just don't recall them now.

Mr. Thomas began by addressing the Board. He had some papers in his hand, and he referred to the constitution and said he was going to show that I was in clear violation of the constitution in connection with the filing of the lawsuit. He read off a couple of provisions of the constitution and then said that the fact alone that I signed the bill of complaint was enough for them, for the Board, to find me guilty of contract violation.

He then proceeded to read from the allega- [432] tions in the bill of complaint, and on each one he would say, "Here is an example of the scurrilous and defamatory literature published and circularized by Underwood," and he would read that off and then point again to the constitution, saying that violates this section or that section.

He talked for some time, going through the bill of complaint. He said that Underwood was thoroughly familiar with the fact that he was in violation of the constitution, that the Board had no choice in the matter, and he said, "As General Counsel of the International Union, I tell you that you have no choice in the matter but to find him guilty of these charges."

He then said that when we had agreed to withdraw the lawsuit with prejudice, we were admitting, or I was admitting, the utter baselessness of the charges and that I had made false and scurrilous statements against the General President and the International.

After he completed his argument to the Board, I again asked Mr. Delaney, inasmuch as the General Counsel was there representing the International and using certain legal language that I certainly couldn't [433] answer, whether or not I could bring our attorney in and have him represent me.

He said, "No, you cannot." He said, "I told you before that you couldn't."

I asked him then if we could have a stenographic record made of the proceedings so we would know what we were faced with. He said, "No, I told you before you couldn't have that. We will proceed with the hearing."

[434] Q. Was your attorney standing by, nearby? A. Yes, sir, waiting to be called.

Q. In New York? A. Yes, sir.

He then asked me if I had anything else to say, outside of the request from an attorney and stenographic record. I said, "Well, I have answers to the charges that I filed with the General Executive Board and I would like to read

them off." So I read off the charges, the answers to the charges that had been filed with the Board, and when I had completed that Mr. Delaney asked me if I had produced everything that I had to produce, and I said, "I have nothing more here now to offer."

He said, "Well," he said, "do you have anything else you want to read?"

I said, "No, I have nothing more here. But," I said, "I want to renew my request again for counsel and the right to have a stenographic record of the proceedings."

He replied, "Well, that is denied and we will go ahead with the hearing."

At that point he invited others in the room who had anything they wanted to say, I believe, to get up and speak. Several members did speak. I mean all of them there with the exception of one or two, from Philadelphia, [435] from our Local, got up and said something about the charges made against me, and after they had spoken then I believe Mr. Maloney was asked to get up and address the Board.

Mr. Maloney said that he had had a conference in Chicago, had taken time out from a very busy schedule, and he said, "I came back to Philadelphia after that conference, and he said that he had everything settled, and, "Now," he says, "they are calling me a strikebreaker." So he said that he filed this lawsuit in Philadelphia against the constitution and he made a few other remarks, I just don't recall what they were. He talked I think only about, oh, five minutes or less. He then sat down.

I think Mr. Carter was asked by Mr. Delaney if he wanted to say anything and he just got up and said, "Well, I filed the charges," and I believe that ended the hearing. I don't recall anyone else speaking at that time.

MR. FREEDMAN: Will you mark this, please?

(Letter dated September 24, 1952, to Mr. Roy J. Underwood from Charles B. Gramling, and enclosure

attached thereto, were marked Exhibit P-59 for identification.)

MR. FREEDMAN: P-59 is a letter on the stationery of the International Union of Operating Engineers, [436] dated September 24, 1952, addressed to Mr. Underwood from Mr. Charles B. Gramling, General Secretary-Treasurer.

By MR. FREEDMAN:

Q. Mr. Underwood, would you please be good enough to examine P-59 and state whether or not you received that letter.

That letter contains a copy of the decision rendered in your case? A. Yes, sir.

Q. Will you read the letter and the decision, please? A. The letter is on the stationery of the International Union of Operating Engineers, Carpenters Building, 1003 K Street, N. W., Washington 1, D. C., Office of the General Secretary-Treasurer.

It is dated September 24, 1952, addressed to Mr. Roy J. Underwood, 2801 Garrett Road, Drexel Hill, Pa.:

"Dear Sir and Brother:

"There is enclosed herewith a copy of the Decision of September 24, 1952 of the General Executive Board in the matter of charges brought against you.

"Please take notice thereof and govern yourself accordingly.

[437] "Fraternally yours,

"International Union of Operating Engineers

"By Chas. B. Gramling

"General Secretary-Treasurer"

Attached were the findings:

"Upon review of all the evidence the Board finds the Carter charges are true and that Underwood is guilty as charged of violations contrary to the provisions of the Constitution and Ritual, in such cases"—

MR. O'BRIEN: Excuse me. I don't seem to be following this.

(Discussion off the record among counsel.)

THE COURT: Are the pages out of order?

MR. FREEDMAN: Yes, sir, we gave them this to have it photostated and apparently whoever put it together put the pages in out of order, so with Your Honor's permission I will put them in order.

THE COURT: All right.

By MR. FREEDMAN:

Q. Will you start over again, Mr. Underwood? Apparently those pages were out of order. A. Yes, sir. This is the decision of the Board.

[This decision appears at page 40a as Exhibit 3 to the Amended Complaint and is not here reprinted.]

* * * * * * * * *

[451] Beneath his signature there appears this sentence:

"The foregoing, having been duly adopted by the General Executive Board upon motion duly passed it was resolved that a copy of the foregoing be served upon Roy J. Underwood by the General Secretary-Treasurer. So ordered."

* * * * * * * * *

[455] Q. Mr. Underwood, last night when we concluded the testimony you had just completed reading P-59, which consists of the decision and apparently the opinion or findings, I should say, of the General Executive Board. Now, do you recall in those findings, Mr. Underwood, there were a considerable number of findings of fact and evidence introduced? Let me ask you first, were any exhibits introduced at the hearing which you attended in New York? A. The only exhibits were those attached to the answer to the charges that I filed with the Board.

Q. What I am asking you is whether or not any exhibits at all were offered at that meeting other than what you attached to your answer. A. No, sir.

Q. Now, was there any evidence introduced other than what you have given here from the witness stand that you recall? I think you said that two men spoke. One was Mr. Thomas, the general counsel. He spoke first, I think you said, did you not? A. Yes, sir, that's right.

Q. Did he give any evidence? [456] A. No, sir.

Q. Regarding any of the occurrences that were related here? A. No, sir.

By THE COURT:

Q. Didn't you say he had the copies of the pleadings in the lawsuit there? A. Yes, sir, he had that.

Q. So that was before the Board? A. Yes, sir. I misunderstood as to what constituted evidence.

By MR. FREEDMAN:

Q. You said he seemed to be reading from something. Could you tell what he was reading from? Do you recognize anything? A. Well, it appeared to be the bill of complaint. He was reading allegations from the bill of complaint and referring to the constitution.

Q. Other than that did he offer any evidence as such? A. No, sir.

Q. Now, the only other one, as I understand your testimony, who made any statement was Mr. Maloney at the conclusion of the testimony or conclusion of the hearing; is that correct? A. Yes, sir, other than the members who accompanied me to [457] New York, members of Local 542.

Q. Before Mr. Maloney got up and spoke, you read in your defense your entire answer, did you? A. Yes, sir.

Q. Did Mr. Maloney take that up, take up the allegations which you had read or the statements which you had made and read at that meeting, did he take them up and deny them or affirm them? A. No, sir, he just said that he tried to settle this thing in Chicago and that now they were accusing him of being a strike breaker or practically a strike breaker.

Q. Did he deny any of the statements which you had made? A. No, sir.

Q. Will you tell us as closely as you can recall just what Mr. Maloney did say, please? A. He got up and he explained that there was a strike on in Philadelphia and that he had called the parties to Chicago for the purpose of getting it settled. He told them that he had discussed it with the parties out there in conference for four days, and now he said just because he was trying to get the thing settled they are practically calling him a strike breaker. That was the substance of what he said. I don't recall—he was only there three to five minutes—but that is what I recall he said.

[458] Q. And at no time did he deny any of these other things other than what you have stated, as you alleged and stated in the meeting? A. No, sir.

Q. Did any of the members who accompanied you deny any of the statements which you had made? A. No, sir.

Q. Mr. Underwood, did you waive any of your legal rights, any of your rights, in going into that meeting?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. Mr. Underwood, were you asked whether you accepted jurisdiction of the Board when you came into the meeting? A. No, sir.

Q. Did that subject ever come up? A. No, sir.

Q. Were you asked to waive any rights? A. No, sir.

Q. Did that subject ever come up? A. No, sir.

Q. Mr. Underwood, yesterday you identified P-46, which was a copy of the letter that Mr. McDonald had sent out to various contractors, and I neglected to ask you to read it [459] to the Court. Will you please do so now. A. This is on the stationery of International Union of Operating Engineers, John J. McDonald, 3rd Vice President:

"Broadwood Hotel
"Philadelphia, Pa.
"August 7, 1952

"Dear Sir:

"This letter is intended to bring about a termination of the work stoppage presently existing in the construction industry insofar as it concerns the operating engineers in this area.

"My investigation into this matter reveals that the Contractors who are members of your Association are completely confused and uninformed about what has been taking place in the way of settlement negotiations.

"The information received by your members from your negotiating committee is to the effect that it is impossible to do business with Mr. Underwood and that he will not honor an agreement once it is arrived at.

"I wish to state to you, without reservation, that this information is absolutely false and it apparently was submitted to your members in bad faith [460] for the purpose of preventing any contract from being entered into between the parties.

"As the representative of the International Union in this area, I have followed this matter closely and carefully. From my own personal observation, I can state that Mr. Underwood has given unsparingly of his time and has exerted every effort to settle this dispute in the utmost good faith. What I have learned from the Contractors, who are members of your Association, indicates that they have not been given the correct information either about Mr. Underwood's actions, or about the suggestions which he has made in attempting to settle this dispute.

"Because of the extraordinary importance of this matter to you and to the individual Contractors who are members of your Association, I strongly recom-

mend that your Board of Directors arrange to meet at the earliest possible moment with Mr. Underwood and his committee and you can then determine for yourselves whether the information you have received is correct.

"It may be of interest to you to know that Mr. Underwood has negotiated and consummated collective bargaining agreements with seven Associations throughout the jurisdiction of our Local Union without [461] any work stoppage and in addition, has negotiated contracts with the Warner Company, Liberty Corporation, and the Negotiating Committee for Independent Contractors representing 160 Contractors in the Philadelphia area. The total number of Contractors bound by the contracts referred to well exceeds 500. The wage increases in the areas outside Philadelphia have now been approved by the Construction Industry Stabilization Commission and all these contractors are proceeding with their construction without any interruption in work.

"It may be that your present representatives have failed to inform you of the true state of affairs, and if this is so it is extremely important that you take immediate steps to ascertain the true situation. It seems to me your own welfare demands that you find our for yourselves what has been taking place and the best way to find out is to meet face to face with Mr. Underwood and his committee and determine what can actually be accomplished in the way of a settlement. I should think that we are all adult enough to put aside petty grievances and fears and meet this situation squarely.

"Should you desire it I would be pleased to [462] sit in at such a conference between your Board of Directors and Mr. Underwood and his Committee and lend my good offices in attempting to work out a solution to this controversy."

"If you feel that I can be of any service in this matter, please feel free to call me at the Broadwood Hotel, Philadelphia, Telephone No. RIttenhouse 6-6800.

"Yours very truly,
John J. McDonald
3rd Vice President."

Q. Now, Mr. Underwood, up until the time that supervision was invoked by Mr. Maloney, had any of the contractors from these Philadelphia associations signed up? A. Yes, sir, they had.

Q. How many? A. 12 or 14. I am not sure of the figure now.

MR. FREEDMAN: Cross-examine.

MR. O'BRIEN: If Your Honor please, at this time I move to strike all of the witness' testimony that does not deal directly with the 1952 strike.

THE COURT: The motion is denied.

MR. O'BRIEN: With Your Honor's permission, Mr. Wolfe will cross-examine.

* * * * * * *

[747] HOMER GEORGE DAWSON, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. Where do you live, Mr. Dawson? A. 1500 Seton Drive, Wilmington, Delaware.

Q. Married? A. Yes, sir.

[748] Q. Children? A. Two.

Q. How long have you lived in Delaware? A. About 17 years.

Q. What is your occupation, Mr. Dawson? A. Operating engineer and master mechanic at present.

Q. How long have you been a master mechanic? A. About eight—

Q. Well, let me ask you this. How long, have you been

an operating engineer? A. I started in 1940 as an operating engineer.

Q. And when did you become a master mechanic? A. 1948.

Q. Will you tell the Court what a master mechanic is, please? A. Well, he supervises the operation and maintenance of construction equipment.

Q. By whom are you presently employed? A. The duPont Company.

Q. As what? A. Master mechanic.

Q. Now, will you start at the beginning and tell us what experience you had as a, how you started as a, how you became an operating engineer, please. [749] A. I started as an oiler and after a period of time, I think about a year, I started operating cranes, larger construction equipment. I operated equipment till I went in the service.

Q. When did you go in the service? A. In 1943, sir.

Q. What part of the service did you go into? A. In the combat engineers.

Q. How long did you serve? A. Three years. Well, actually 32 months.

Q. And when you came out did you come back to the same occupations? A. Yes, sir.

Q. Now, will you trace your activities from that point, please? A. Well, I also acted as a master mechanic while in the Army and operated and supervised equipment there. After coming out of the Army I again started running cranes, shovels, drag lines, various construction equipment.

Q. In Delaware? A. In Pennsylvania for a short period of time and then in Delaware.

Q. Now, when did you join the union, Mr. Dawson? A. In 1941.

[750] Q. Was it then under supervision? A. Yes, sir.

Q. Did you have to sign any papers in order to get in? A. I signed an application.

Q. Now, what part of the union did you get into? Did

you get into the parent body? A. No, sir. I went in the A Branch as an apprentice.

Q. Which branch? A. The A Branch.

Q. A. I see. How long did you remain in that branch? A. Until late 1946 or early 1947. I am not sure which.

Q. Did you transfer from the A Branch then into the parent body? A. Yes, sir.

Q. Did you have to sign any special papers to get into the parent body? A. Yes, sir; I did.

Q. What were they? A. Well, at the time that I applied for a transfer to the parent body I had filled out an application, answered certain questions, and I was in the office unemployed at the time and Mr. Mogan called me into the back, around to the back, and he said, "Homer, I think you—we have got your parent body book for you, but here is a paper. Have you signed this [751] before?"

Well, I looked at the paper and I said, "No."

He said, "Well, you are going to have to sign it before you get your book."

Q. What was the paper? A. It was a form or form letter that was being circulated at that time—

MR. O'BRIEN: Excuse me. That is objected to, sir, unless the paper is available.

THE COURT: I will overrule the objection.

MR. O'BRIEN: And I further object, sir, on the ground of immateriality.

THE COURT: That I don't know. Overruled.

By MR. FREEDMAN:

Q. Please go ahead, Mr. Dawson. A. The paper was a form that was being circulated at the time stating that you did not want local autonomy, that you were in favor of supervision, and that you had nothing to do with the court case that was—I think had already been presented in the court in Philadelphia.

Q. Did you sign it? A. I did.

Q. Why?

MR. O'BRIEN: Objected to.

[752] THE WITNESS: I was told I wouldn't get my parent body book if I didn't.

By MR. FREEDMAN:

Q. Can you tell us something about the conditions in the union at that time? And I refer specifically to unemployment and the conduct of meetings and similar matters.

MR. O'BRIEN: Objected to, sir, on the ground of immateriality.

THE COURT: I am going to listen to it. I will overrule it.

THE WITNESS: Well, I attended very few meetings during that period, because I was living and working in Delaware. It wasn't until 1947 that I started attending meetings.

By MR. FREEDMAN:

Q. Well, don't tell us what happened at the meetings, then, if you didn't attend those prior to 1947. Do you know anything about the conditions in the union, particularly with respect to employment and other union, other related matters? A. Well, I was employed steadily until the time I went in the service. After I came out I had considerable trouble getting employment. I know there were very few jobs that were considered as union jobs at the time and a great many [753] of them that were considered non-union. During that period of time, of course, while I had an A book and was operating the construction equipment, I was required to pay $2.50 a week permit fee for the privilege of doing so.

Q. Did you get work steadily during that period? A. Well, I would say I worked eight or nine months out of the year.

By THE COURT:

Q. How is that on the average for an operating engineer? A. I beg your pardon, sir?

THE COURT: Read the question.

(The pending question was repeated by the reporter.)

THE WITNESS: I would say that was about average for that period of time.

By MR. FREEDMAN:

Q. Now, did you notice—well, I will follow up this line. Did you become an officer in the union at any time? A. In 1948; yes, sir.

Q. Now, you said something before about a movement to revoke supervision. Did you participate in that movement? A. Yes, sir.

Q. Will you tell us the extent of your activity, please? A. Well, after I became familiar with the situation, [754] which I frankly wasn't up to that time, and I realized what I had done by singing this paper, I became active. I attended meetings. I participated in meetings to try to tell the membership what I knew about it. I did what I could to let the membership know and to get support for the autonomy movement.

Q. Now, after autonomy was granted or obtained, was there any change in the conduct of the union that you could personally tell us about?

MR. O'BRIEN: Objected to.

THE COURT: Read the question back.

(The pending question was repeated by the reporter.)

MR. FREEDMAN: When I say "personally" I meant that you know of your own personal knowledge.

THE COURT: That question encompasses the entire order of union activity. Do you want it in that form?

MR. FREEDMAN: No, sir, just—

By MR. FREEDMAN:

Q. I would like you to confine it very briefly to the

major factors, major matters, without going into trivia and unimportant detail.

MR. O'BRIEN: Well, I still object to this, [755] sir.

THE COURT: Well, now, let us find out what the witness understands, whether he understands, or what he understands is the purport of the question.

Read the question, and you tell me now, Mr. Dawson, what you think that question encompasses and what you are going to talk about.

MR. O'BRIEN: Sir, so I will not burden the record with repeated objections, could I have a standing objection to this line of questions?

THE COURT: You may not.

Read the question back.

(The pending question was repeated by the reporter, as follows:

"Q. Now, after autonomy was granted or obtained, was there any change in the conduct of the union that you could personally tell us about? When I say 'personally' I meant that you know of your own personal knowledge. I would like you to confine it very briefly to the major factors, major matters, without going into trivia and unimportant detail.")

By THE COURT:

Q. Now, what do you think that means that you have to tell about now, Mr. Dawson? [756] A. Well, I would say—

Q. Just broad categories now. Don't tell me any specific thing. What would you encompass in an answer to that question? What would you talk about generally? A. Well, that covers a pretty large field, Your Honor.

Q. Well, I am just asking you what you would. I am the jury, you know. I have to hear it. A. Well, I would

say it would mean the difference between the meetings before autonomy and after.

Q. All right. What else? A. The difference in the finances of the union from what I knew or heard of them.

Q. I won't hear what you heard of them—what you personally knew. See, your counsel limited you to that. I will hear that. What else? A. The conduct and activities of the business agents, contrast between the two periods.

Q. That you personally saw? A. Yes, sir.

Q. All right. What else? A. I think those are the major things, Your Honor.

THE COURT: All right.

MR. FREEDMAN: May I answer—

THE COURT: I will overrule the objection to [757] him answering on his personal knowledge as to those three categories.

You may proceed, first of all, to the meetings.

THE WITNESS: At the meetings prior to local autonomy, I didn't attend a great many of them, perhaps five or six during the 1947 and early 1948 period. I heard many members get on the floor, and if their remarks or questions were at all critical, they were immediately told to sit down and be quiet, or they just weren't heard, motions were not accepted. After we obtained autonomy, there was democracy at the meetings; everybody was heard. Whether they were critical or not, why, people had an opportunity to speak and were given that opportunity.

By THE COURT:

Q. They weren't shouted down at all; is that what you are telling me? A. Yes, sir.

Q. All right. A. Yes, sir. There was very little of that.

Q. All right. Was there some of it? A. Yes, sir. I think there was at the start.

THE COURT: All right. Go ahead.

THE WITNESS: The business agents, before [758] local autonomy, we would see them very seldom on the job. From what—I can't testify to that. I know I personally didn't see a business agent more than once every six or eight months on the job. They just weren't to be seen. After autonomy was obtained the business agents made regular visits to the job, went out, policed the jobs, and generally kept an eye on all the affairs of the union.

By THE COURT:

Q. Now we come to finances. A. I have no personal knowledge of that, sir—

Q. All right. A. —except for the fact that the permit fees were abolished after we obtained local autonomy.

Q. Well, let us go into that. Have you been in court every day? A. Yes.

Q. Did you hear about minutes of meetings before you even had an election of officers where the national office directed you to discontinue permit fees before local autonomy was actually in existence? A. I understood it to be, Your Honor, that was meetings that the officers were installed, that that letter was read off.

Q. Yes; but the letter was a communication directing you to do it, and it came out of the national office; did you [759] understand that? A. Yes, sir.

Q. Your testimony still remains the same, then, that you did it after local autonomy? A. Well, I said, Your Honor, that that was one of the changes. That is what I meant, that that was one of the improvements.

Q. Oh. A. I don't know exactly how it was arrived at.

Q. It was an improvement, yes— A. Yes, Your Honor.

Q. —no question about it—just as it was an improvement in 1940 for the ordinary member to discontinue the 3-per-cent assessment. A. Yes, Your Honor.

THE COURT: All right. Go ahead, Mr. Freedman.

By MR. FREEDMAN:

Q. What about contracts and contract enforcement? Can you testify as to that from personal knowledge?

MR. O'BRIEN: That is objected to, sir.

THE COURT: Well, let us find out. Was he an officer after 1948?

THE WITNESS: After 1948, Your Honor?

THE COURT: Yes.

[760] THE WITNESS: Yes sir. I would certainly say that the contracts were well enforced after 1948.

By THE COURT:

Q. Were you on the Executive Board or did you have any official position in the union? That is what I am trying to find out. A. Yes, Your Honor.

Q. What was it? A. I was on the Executive Board.

THE COURT: All right. Then he is in a position to testify. I will overrule the objection.

Go ahead, Mr. Freedman.

By MR. FREEDMAN:

Q. When did you get on the Executive Board? A. In 1948. I don't know the month.

Q. Now, will you tell us what you know about contracts and contract enforcement? A. I know that contracts were—certainly were enforced and that there were many more contracts signed and many more contractors by that union than previously.

Q. Do you know whether the contracts were enforced equally against all contractors? A. Yes, sir.

Q. That is during autonomy? A. Yes, sir.

[761] Q. Are you able to state from personal knowledge whether the same was true during supervision? A.

No, sir, I am not able to say. I have heard about it, but I don't know from personal knowledge.

By THE COURT:

Q. How long have you been with duPont, Mr. Dawson? A. Since 1948, Your Honor.

Q. I rather gathered that your only construction jobs are with duPont; is that it? A. I have been—

Q. Tell me generally what work you have done since 1948. I would like to get an appraisal of your opportunity to see what went on in the Union other than at meetings. A. In 1948 I started as an operator for the duPont Company. I worked for them for two years. I went with Merritt, Chapman & Scott as a master mechanic—

Q. Wait a minute. You worked for duPont for two years. What kind of work did you do? A. For one year I worked for Merritt, Chapman & Scott as a master mechanic.

Q. We are talking first 1948. You went with duPont; is that right? A. I went with duPont in 1948 for about two years.

[762] Q. Two years. Tell me what you did for duPont.

MR. FREEDMAN: Describe the nature of the jobs. I think that is what the Court has in mind. I would like to know that too.

THE WITNESS: I am sorry, Your Honor, I misunderstood you. I started as a crane operator on that job, doing several crane work.

By THE COURT:

Q. On what job? A. That is on the duPont Experimental Station construction in Wilmington, Delaware.

Q. All right, now, and you were on that particular job for two years, or that and other jobs. A. That one particular job for two years, Your Honor.

Q. You were on that job for two years? A. Yes, sir.

Q. All right, now, we are up to 1950. Were there

other operating engineers on the job with you? A. Yes, there were 80 or 90 at the peak.

Q. That was 1948 to 1950. A. Yes, sir.

Q. Now, in 1950 you went with Merritt, Chapman & Scott? A Yes, Your Honor.

[763] Q. Where did you work and what type of work did you do? On what kind of construction did you work? A. I went to work with Merritt, Chapman & Scott as a master mechanic on a building job in Claymont, Delaware for General Chemical Company, building a chemical plant.

Q. And how long did that job last? A. About a year, sir.

Q. How many operating engineers on that job? A. At the peak about 15.

Q. And afterwards? A. Ten, Your Honor.

Q. That takes us up to 1951. A. 1951.

Q. All right, now, after 1951. A. I went back with the duPont Company again as a master mechanic at the Louvier's office building.

Q. How long did that last? A. Well, the job lasted about a year and a half. I left that job in 1952 to become a business agent.

Q. Business agent for Local what? A. 542, sir.

Q. In 1952?. A. Yes, sir.

[764] Q. What month of the year? A. I believe the first of April, about the first of April.

Q. The first of April of 1952. All right, now, go on from there. How long were you a business agent? A. For about six months, six or seven months.

Q. Until toward the end of the year? A. Yes, sir.

Q. Then you were relieved of your duties, I assume? A. I resigned, sir.

Q. What have you done since then? A. I then took a job as a fork-lift operator for a short period of time in Claymont Steel. I then took a job as a crane operator for a short time at the Leo Butler Company in Wilmington.

I then in early 1953 went back with the duPont Company as an operator and a short time as a master mechanic, and I have been with the duPont Company since, Your Honor, on three different job sites.

Q. They are all construction jobs? A. Yes, sir.

Q. And you are still with them? A. Yes, sir.

[765] THE COURT: All right, go ahead.

By MR. FREEDMAN:

Q. Now, Mr. Dawson, are you familiar with the controversy that arose in about May of 1951 in connection with the so-called Kelly agreement? A. Yes, sir.

Q. Do you recall whether the negotiations between the contractors and the Union were reported to the Union prior to May of 1951?

MR. O'BRIEN: Objected to.

THE COURT: Read that question back, Mr. Schuman.

(The last question was read.)

THE COURT: I will sustain the objection. That is too indefinite. I want something pinpointed.

By MR. FREEDMAN:

Q. Were you present at a membership meeting or at any meeting, official meeting, of Local 542 when there was a report on negotiations between the contractors and the Union prior to May 1 of 1951?

THE COURT: About what?

MR. FREEDMAN: I should say 1950, prior to May 1 of 1950.

[766] A. I recall it. I recall that. I don't remember whether it was discussed at an Executive Board or at a Union meeting. I am not sure.

By MR. FREEDMAN:

Q. Well, will you give us your recollection, sir.

MR. O'BRIEN: He just did. I object, sir. The question has been answered.

By MR. FREEDMAN:

Q. What do you remember hearing, or what do you remember of the report? A. This is in 1950?

Q. In 1950, that is right, and I am directing my question specifically to the term of the contract. A. Oh, I recall that. That was when the—

MR. O'BRIEN: That is objected to, sir.

THE COURT: That it is leading is of no consequence, Mr. O'Brien. It is objectionable.

MR. O'BRIEN: I object on the grounds of materiality, too.

THE COURT: I will hear it. Overruled.

THE WITNESS: Well, that meeting or that period of time was when the Welfare Fund was first established, and it was agreed, I am quite sure, to continue |767| the collective bargaining agreement for one year and sign a trust agreement for two years. I remember that being discussed at various meetings.

By MR. FREEDMAN:

Q. Do you remember that at the end of the 1-year period there was a dispute with the contractors which resulted in a strike in May of 1951? A. Yes, sir.

Q. Do you recall the injunction which was handed down by the Common Pleas Court in connection with that dispute? A. I remember it, yes, sir.

Q. Do you know whether or not the men worked under that injunction for a rate which was different than that which the men worked for for other contractors in the same area? A. Yes, sir.

Q. Will you tell us what it was, please. A. It was 25 cents an hour less than the other members of the Union were getting.

Q. That is, working for other contractors? A. Yes, sir.

By THE COURT:

Q. Mr. Dawson, if you had a valid contract with any [768] contractor to work for two years, wouldn't you feel that you ought to honor that obligation? A. Yes, sir.

THE COURT: All right, go ahead.

By MR. FREEDMAN:

Q. You were a member of the Executive Board, were you not, when they started negotiations prior to May of 1952? A. Yes, sir.

Q. I think you have already testified to that. Will you tell us what you know about those negotiations, please.

MR. O'BRIEN: With whom?

By MR. FREEDMAN:

Q. Well, were there negotiations with the independent contractors? A. Yes, sir.

Q. Were there also negotiations with the association contractors? A. Yes, sir.

Q. Now, so that we get it straight for the record, I think I have already stated my position in connection with the preceding witness, but for clarity I would like to restate it here: When I say association contractors I [769] am talking about the three Philadelphia contractor associations in the Philadelphia area, including the General Building Contractors Association, the Contractors Association of Philadelphia, and the Pennsylvania Excavators Association. Now, all the other contractors, when I refer to them, I am referring to them as independents, even though some of them may include associations. Do you understand what I mean by that now? A. Yes, sir.

Q. Now, you said before that you were familiar with negotiations with the independent contractors. A. Yes, sir, through the sessions at the Executive Board.

Q. Now, were you also familiar with negotiations that were carried on with the association contractors? A. Yes, sir.

Q. When did the negotiations first start? With which one? A. I believe they started with the association contractors first.

Q. Well, tell us what you know about that, and then you can give us the discussion or what knowledge you have concerning the negotiations with the others as you go along.

[770] By THE COURT:

Q. Let us clear something up first for the benefit of the jury. I have heard Mr. Underwood state that there was a Negotiating Committee. I haven't the faintest idea who that Negotiating Committee was. By any chance, were you on it? A. No, sir

THE COURT: Very well.

By MR. FREEDMAN:

Q. Do you know who was on the Negotiating Committee? A. I know Mr. Underwood and two or three of the business agents.

Q. Do you know who they were? A. I believe Jerry Leone and Pete Pantaleo, I am quite sure were two. I don't know. I believe there were others from time to time.

MR. FREEDMAN: If the Court please, I think that Mr. Underwood did testify who the Committee was, and if Your Honor would like, I could develop that after this witness—

THE COURT: I would like to know.

MR. FREEDMAN: Would Your Honor want me to put Mr. Underwood on for just a minute?

[771] THE COURT: No. Mr. Underwood will be back before this case is over. I have a few things that I want to talk to Mr. Underwood about, too, before this case is over, so we will be talking again.

MR. FREEDMAN: Fine, sir.

By MR. FREEDMAN:

Q. Will you tell us what you know about those nego-

tiations, please, Mr. Dawson? A. I think it started, I remember Mr. Underwood reading a letter off or notifying the meeting that he had notified the Contractors Associations that they wanted to reopen negotiations or to open —the contract expired the first of May, and they wanted to renegotiate a contract. I know that at several membership meetings there was a great deal of discussion about what should be asked for. I know that a list of demands were drawn up and were presented to the membership. I believe there were some further additions made from the floor after discussion. People would say, "I think we should get this," or, "Let's add this or add that."

As a result of that, a list of demands were drawn up and were presented to the contractors.

Q. Where were the demands first drawn up? In the [772] Executive Board, by the Executive Board, or in the membership meetings, or both? A. Well, we discussed it fully at several meetings during that period of time. I really couldn't say where they were drawn up. I think it was as a result of the continuous discussions.

Q. Do you recall any reports in the course of the Executive Board or membership meetings regarding the progress of those discussions, the negotiations? A. Yes, sir.

Q. Will you tell us what you recall of your own knowledge, please. A. Well, I remember Mr. Underwood reporting that he had presented these demands to the contractors. I remember that they sent in a list of their demands which were read off at a meeting—I think there were about forty of them—taking away everything that we had had in our contract, and which was immediately rejected by the membership.

MR. O'BRIEN: I move that that part be stricken.

THE COURT: Granted.

THE WITNESS: I remember just prior to the [773] first of May that the contractors sent in—well, what they said was a final offer to continue the

1949 agreement and continue the Welfare Fund, but turned back two and a half cents of the ten cents they were paying into the Welfare Fund. That was unanimously rejected by the membership, and at that point —well, the strike was voted. I am not sure whether it was at that meeting or the meeting previous. The strike was voted.

By MR. FREEDMAN:

Q. During that period do you recall whether there were any negotiations undertaken by the independent contractors? A. Yes, sir.

Q. Will you tell us what you know about those? A. I know a contract was signed prior to the first of May, after negotiations. I didn't attend any of the negotiations myself, but I know a contract was signed.

Q. And do you remember whether there was any change in the rate? A. Yes, sir.

Q. What was that change? A. It provided for a 15-cent-an-hour increase.

Q. And do you recall whether you effected an agreement with the independent contractors? [774] A. Yes, sir, we did.

Q. Was there any strike against the independent contractors? A. No, sir.

Q. Now, during the period from 1948, when autonomy was obtained, until this period, was there much if any unemployment among your membership? A. Practically none in Delaware, with which I am most familiar.

Q. Did you have any opportunity to observe conditions in the Pennsylvania area? A. Very little.

Q. In the course of the meetings that you attended did you discuss that with any of the other members? Did you discuss employment conditions with any of the other members? A. Yes. I know everybody agreed that there was very little unemployment at the time. Practically everybody that I talked to was working.

Q. Was that a topic or a subject which was discussed

on the floor, too? A. Yes, sir. I am sure it came up in the business agents' reports and questions from the members.

[775] Q. Now, there was a strike on May 1, 1952. Do you recall that? A. Yes, sir.

Q. And that was only against the association contractors? A. Yes, sir.

Q. Did you participate in that strike? A. Very little. My territory was the State of Delaware at the time.

Q. You were then a business agent? A. Yes, sir, in the State of Delaware. I didn't participate directly in the strike.

Q. You didn't serve any picket duty yourself at all, did you? A. No, sir.

Q. Did you attend the meetings? A. Yes, sir.

Q. During that period, during the period of the strike? A. Yes, sir.

Q. Are you able to state whether or not there was any unemployment among your membership during the period of the strike? [776] A. There was none to my knowledge.

Q. Are you able to state why—

MR. O'BRIEN: Objected to.

Q. —considering that there was a strike against these three associations?

THE COURT: If he has personal knowledge, he may tell us.

A. Well, the Morrisville steel plant was running at the time. All the independent contractors were signed up, and I know that I personally called in nearly every day for men to be sent down to the State of Delaware, where we needed them to man jobs. There just weren't enough men in Delaware to man the work.

Q. And you had to bring in men from the outside? A. I called in to the Philadelphia Office and asked them to send men down, yes, sir.

Q. When you made those calls, were you able to de-

termine whether there was any unemployment among the men?

THE COURT: What men?

By MR. FREEDMAN:

Q. Let me change it. Did you find any difficulty getting any men to man the jobs in Delaware? A. I had some difficulty in some of the jobs at the [777] lower part of the state.

By THE COURT:

Q. People didn't want to travel that far; is that it? A. Yes, Your Honor.

By MR. FREEDMAN:

Q. Did you find, from your observation and from your attendance at the meetings, whether there was any unemployment during the period of the strike among your membership? A. From what I could see, there was very little.

MR. O'BRIEN: I object.

THE COURT: Read the question.

(The last question was read.)

THE COURT: I sustain the objection.

By MR. FREEDMAN:

Q. Do you know whether there was any unemployment during the period of the strike, from your own knowledge? A. Very little, sir.

Q. Now, did there come a time when you participated in the negotiations with the association contractors. A. Yes, sir.

Q. When was that? A. That was in about the middle of July, when Carter was sent in.

[778] Q. Prior to that time do you know whether or not any other Unions were solicited for assistance? A. Yes, sir.

Q. Will you tell us what you know about that. A. I attended a meeting—I don't know the address of the place

now—I think it was sometime in June, that was attended by some officials of the Marine Trades Department, who at that time pledged their support on our picket line, agreed to help us, and said they would furnish all the pickets we needed.

Q. About when did you say that meeting took place? A. I believe it was in the latter part of June.

Q. Was that a regular or a special meeting? A. A special meeting, as I recall it.

Q. And called for what purpose? A. I think it was because there was a back to work movement had been started at that time, and the newspapers were reporting that the members were ready to go back to work, and I believe the meeting was called to determine the feelings of the membership and see just exactly what they wanted to do.

Q. And will you state what happened at that meeting, please. Who addressed the membership and what happened? [779] What if any action was taken? A. I know that there was a vote taken to continue the strike, or a vote was asked to see whether the members wanted to continue the strike, and it was passed, I believe, unanimously. Blackie Cardullo of the Marine Trades Department spoke and offered his support on the picket lines. John McDonald, third vice-president, spoke and thanked the Marine Trades Department for their support.

Q. What did he say? What did Mr. McDonald say, as closely as you can remember, please? A. Well, I know he thanked the Marine Trades Department for their support, said that he welcomed them on our picket line, and that the Local Union was doing a wonderful job of carrying out the strike, that it was certainly going to be successful, that the International—he was speaking for the General President—was a hundred per cent behind the strike. That, I think, is basically what he said. I don't remember his exact words.

[780] Q. Were there any representatives of any

other unions there besides Cardullo? A. Well, there were some from the Marine Trades Department. I don't know which trades they represented, but there were several officials there, various trades.

Q. Did they give their support also? A. Yes, sir.

Q. And what was the outcome of the meeting? A. Well, we accepted their help on the picket line and voted to continue the strike.

Q. Was there any division in the vote? A. I don't recall any "No's." I think it was unanimous. I believe it was a standing vote.

Q. How well attended was that meeting? A. There were a lot of people there.

Q. Can you estimate? Do you remember? A. Well, I have no idea of the capacity of the hall. I don't even know where it is now. I would say there was well over a thousand people. I have no way of knowing. The place was packed.

Q. Going back to Mr. McDonald for a moment, did you have any contact with Mr. McDonald prior to that meeting in June of 1952? A. Only at Executive Board meetings.

[781] Q. Did he attend the Executive Board meetings? A. Yes.

Q. Did he say anything about the strike during those meetings? A. Well, he said that he, and speaking for the International, was in favor of it, that the International was a hundred per cent behind it and we could expect the full support of the International.

Q. Did he ever say anything different than that in the course of the strike—at least up to that time? A. Up to that time, no, sir.

Q. What happened after that meeting in June of 1952?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Well, the strike continued. I believe the next major

development in the strike was when Carter was sent in as an observer.

By MR FREEDMAN:

Q. Do you know the circumstances under which he came in? Were there any reports made to you in your capacity as a member of the Board? A. No, sir, just reported that he was coming in as an observer. That was the only report. Mr. Underwood had stated that he had talked to Mr. Maloney and tried to talk [782] him out of it, but Mr. Maloney had insisted upon sending him in, but Mr. Underwood emphasized that he was only being sent in as an observer.

Q. Will you tell us what you know about Mr. Carter's coming in. Did you attend the meetings which were attended by Mr. Carter? A. Yes, sir.

Q. Will you tell us what you know about them, please, and what occurred. A. The first meeting was very short. Mr. Carter was sitting in one of the rooms in the Broadwood Hotel. Mr. Carter was sitting in there by himself, I believe, when we came in, and he seemed quite alarmed—

Q. Can you place this meeting for us, please? A. The date?

Q. Yes. A. In the middle of July. I don't remember the exact date. I would say somewhere around the 20th. I am not sure of the exact date.

Q. Can you tell us where it took place? A. In the Broadwood Hotel, on the 6th floor, in one of the meeting rooms there.

Q. Please proceed. A. Carter seemed quite disturbed and asked what this mob of people was doing there.

By THE COURT:

Q. That brings me right back to the question that is in my mind. How many people were there with you as you walked into that room? A. The General Executive Board—I beg your pardon—the Local Executive Board.

Q. Comprised of how many people? A. Approximately 20.

(A 10-minute recess was taken at 11:05 A. M.)

By MR. FREEDMAN:

Q. Mr. Dawson, you were telling us about this meeting that you attended at which Mr. Carter was also present. Will you tell us what happened, what you observed, and what was done, please? A. At the first meeting Mr. Carter said that he didn't expect this, that he was amazed at that many people coming, that it was his understanding that Mr. Underwood was to meet [784] with him and Mr. Halloran to discuss the thing privately. Mr. Underwood told Mr. Carter that any discussions that took place, he wanted them to take place either in front of the Board or with his negotiating committee and he didn't want to or didn't intend to attend any private meetings.

I believe Mr. Halloran came in at that point. Mr. Carter and Mr. Halloran had a conference, and Mr. Halloran said that he wasn't prepared to, he didn't have his committee with him, and he wasn't prepared to discuss the whole thing, that it was his understanding there was to be a private meeting.

I don't remember whether Mr. Halloran got his committee together and appeared later that day. I think not. I think the meeting adjourned then with very little discussion, and another meeting was to be arranged.

Q. Then what happened? A. Well, there was another meeting arranged. At that [785] meeting the committee for the Union, committee for the Contractors Association, Mr. Carter, and two or three people from New Jersey attended that meeting.

Q. And who attended the meeting on behalf of the union, that is, Local 542? A. Mr. Underwood, myself, Mr. Lavery, Mr. Leone, I think Mr. Pantaleo. Perhaps Mr. Brightbill, I am not sure.

Q. That was about the size of it? A. About, yes, sir.

Q. Where was that second meeting held? A. I believe in the same room. It was in the Broadwood Hotel. I think in the same room.

Q. I don't recall whether you stated who attended on behalf of the employers. A. Well, I had never met those people before. There was Mr. Halloran and Mr. Buckley.

Q. How many did they have in their group? A. I think five or six.

Q. About how many would you say you had in your group? A. Five or six.

Q. Go ahead and tell us what happened, please. A. Well, at that second meeting there was considerable discussion about the various demands. Mr. Underwood said that we would take them one by one and see if we could agree on [786] them. He would start reading them off, Mr. Carter would make remarks from time to time and say, "Well, now, Roy, you know that's just window dressing. You can't expect to get that," and the contractors had very little to say. They seemed to be letting Mr. Carter supply the answers for them.

The meeting went on I think for two or three hours with practically nothing being accomplished, mainly because of Mr. Carter making these remarks and getting into the discussion. They adjourned at noon for lunch, and I think it was perhaps two to three hours before Mr. Carter and Mr. Halloran came back, and he passed out, he gave a piece of paper to Mr. Underwood, where he made suggestions. I believe they were suggestions of Mr. Carter agreed to by employers, I believe was the heading of it.

Mr. Underwood looked at it, passed it around. All of us when we saw it, of course, immediately made our position known that we would have no parts of anything like that. It was considerably less than even our independent agreement, and that Mr. Carter had no right whatsoever to come in and write and sign an agreement for the local union.

He said, "Well, this is what the contractors wanted, this is what I propose, and this is it."

I believe somebody asked for a copy of it then, and he had only one handwritten copy. He gave it to one of [787] the people from New Jersey that was with him and asked him to make a copy. I think there were two or three copies made and passed around.

That session lasted well into the afternoon. I would say it lasted perhaps three hours. It didn't start again until late in the afternoon, after the noon recess, and there was just a lot of discussion with very little being accomplished, because of the suggestion that Carter had made, and Carter himself was doing the negotiating for the contractors. They had very little to say during the entire meeting.

MR. O'BRIEN: I move that that remark be be stricken, sir.

THE COURT: I will deny the motion to strike.

THE WITNESS: The meeting broke up I think about 6:00 o'clock with nothing being accomplished.

By MR. FREEDMAN:

Q. Mr. Dawson, I show you Plaintiffs' Exhibit 41 and I ask you whether that is the paper that Mr. Carter came in with? A. Yes, sir, I believe it is. This is the same suggestion.

Q. And entitled the same way? A. Yes, sir.

Q. Do you know who wrote that out? [788] A. Mr. Carter came in with one written out. I don't know whose handwriting that was in, and when we asked for copies, he handed it to one of the people from New Jersey that was with him and asked him to make up some copies of it.

Q. Did you see him write it out? A. I saw this person with him write it out, yes, sir, a copy, from what Mr. Carter gave him.

Q. Do you know who that person was? A. I have heard his name. I can't recall it, sir.

Q. But he was associated with Mr. Carter? A. Yes, sir, he came over with Mr. Carter.

Q. What happened after that meeting? A. Another meeting was scheduled for a day or two later, I am not sure which, but before that an Executive Board meeting was held, I believe, the morning before the next meeting, where Mr. Underwood gave a full report of what had taken place up until then, until that time, explained Mr. Carter's coming in and this proposal that he had come in with.

He explained that he had talked to Mr. Maloney and that Mr. Maloney had assured him that Carter was only being sent in as an observer; and that the Executive Board instructed him to tell the contractors and Carter that they couldn't expect to get a contract with Carter, that they were going to have to negotiate with the local union representatives.

[789] The meeting was held I think about 10:00 o'clock, and Mr. Underwood opened the meeting by explaining just that, that Mr. Carter had no authority to sign an agreement, to write or sign or to even suggest, he had been sent in as an observer and that the contractors would have to negotiate with the local union committee to get a contract. He said, "This is what the meeting is for, and let's proceed and see if we can't get a contract ironed out."

At that point Mr. Carter jumped up and he said, "Well, I have got something to tell you." He said, "I have authority to both write and sign a contract for Local Union 542." He said, "I have got that authority from Mr. Maloney, and if you don't believe me, you better call him."

I believe Mr. Underwood said at the time, "Well, certainly we can't go on on this basis, and I certainly will call Mr. Maloney and see just what is going on," and at that point the meeting broke up.

Q. What happened after that? A. I believe Mr. Underwood called Mr. Maloney, and as a result of that call I

believe Mr. Maloney told him to come to Chicago and discuss it there.

Q. Do you know where Mr. McDonald was during this period? A. He was in Philadelphia.

[790] Q. He was available, was he? A. Yes, sir.

Q. Do you know that of your own knowledge? A. Yes. I saw him during that period of time when Carter was in. I saw him once or twice at the office.

Q. Did you talk to him? A. Just to say hello. I didn't discuss it with him.

Q. Now, was there any meeting of the Executive Board before Mr. Underwood went to Chicago? A. Yes, sir, there was.

Q. By the way, do you know of any other meeting between Mr. McDonald, Mr. Underwood, and Mr. Maloney in Washington prior to that time? A. Yes, sir. Mr. Underwood had reported that he and Mr. McDonald had been to Washington and talked to Mr. Maloney.

Q. And what did Mr. McDonald say about those things? A. I am not sure now which one reported. I believe it was at an Executive Board meeting that they both reported they had been in Washington and that Mr. Maloney had at that time said that he was going to send in an observer and that they had both prevailed upon him not to send anyone in, and that Mr. Maloney had said, "Well, go on back to Philadelphia, then, and go ahead and negotiate."

Q. Do you recall about when that was? A. About the 1st of July, somewhere around the 1st of July.

Q. Now, getting back to this meeting in Chicago, do you know whether or not an Executive Board meeting was held prior to Mr. Underwood's going to Chicago? A. Yes, sir, it was.

Q. Did you attend it? A. Yes, sir.

Q. What happened at that meeting? A. Well, Mr. Underwood explained what had happened up to that point about Carter being sent in, said that he had talked to Mr.

Maloney on the phone and that Mr. Maloney had said Carter had overstepped his authority, and he said, "I think, though, that there is going to be some pressure put on, and we may have to back away from our original demands," and this meeting was called for the purpose of discussing it.

It was discussed very thoroughly at that meeting, and as a result of the discussions, there were certain concessions agreed to that we would agree to arbitrate certain items—I don't remember which ones they were now—if certain other items were agreed to, and at all times we would use the independent agreement as the basis for negotiation; and Mr. Underwood was so instructed, if necessary, why, to go ahead with these changes and bring it back to the membership for approval if an agreement could be reached.

[792] Q. Following that Mr. Underwood went to Chicago? A. Yes, sir.

Q. Did he make a report when he came back? A. Yes, sir.

Q. Were you there when he reported? A. Yes, sir.

Q. Will you tell us about that, please? A. Well, he reported of the three or four days, how he had talked to Mr. Maloney first, then Mr. Carter and Mr. Halloran had been called out there, how they went over the agreement, the agreement that Mr. Underwood had, and the demands that were made, went over it thoroughly, and there were no concrete results obtained from that meeting; and that the last thing that had been said was for Mr. Underwood and Mr. Halloran to come back to Philadelphia and sit down and negotiate.

[793] Q. You heard Mr. Underwood testify from the witness stand here about his conversations with Mr. Maloney and the outcome of that meeting? A. Yes, sir.

Q. Are you able to state whether his report coincided with his testimony here? A. Very substantially so, yes, sir. It is quite a lengthy report.

Q. What happened after that? That was about when?

Can you place that meeting? A. Oh, I would say in the first week of August, somewhere around the 1st of August, probably the first week in August.

Q. Did you have any further negotiations with the contractors? A. There was one more meeting with the contractors.

Q. Was that the next development? A. Yes. I am not sure whether it was following that Executive Board meeting or previous to it, but there was one more meeting with the contractors.

Q. Did you attend it? A. Yes, sir.

Q. Tell us what happened, please. A. At that meeting, why, Mr. Underwood opened the [794] meeting and said, "We are here to negotiate a contract." He told briefly how he and Mr. Halloran had been in Chicago and said that the last thing they had left Mr. Maloney with was that he had said to come on back to Philadelphia at sit down and negotiate. He said, "That is the purpose of this meeting, and let's get started on it."

I think he started to read off one or two provisions of the contract, and Mr. Halloran said, "Well, now, I have got a completely different understanding from Mr. Maloney," and he started to read something, and, well, there just wasn't agreement as to what had happened in Chicago; and Mr. Underwood said to him, "Well, now, certainly that isn't my understanding at all with Mr. Maloney," and Mr. Halloran said, "Well, maybe you better call Mr. Maloney and find out just what the understanding was, then," and at that point that meeting broke up.

Q. What happened after that? A. I think the next thing that happened was the telegram from Mr. Maloney suggesting a settlement on the basis of the telegram. He made the suggestions for settlement in the telegram, which was proposed to the membership.

Q. You mean Mr. Maloney? [795] A. Mr. Maloney, yes, sir.

Q. Are you familiar with the telegram which Mr.

Underwood sent to Mr. Maloney in that connection? A. No, sir, I am not.

Q. Was that discussed at all? A. I know that Mr. Underwood sent a telegram. I don't know the contents of it.

Q. Was that telegram discussed, that is, what he should say? A. I remember it being discussed. I wouldn't say whether it was in a Board meeting. I know that I discussed it with Mr. Underwood, whether it was at a Board meeting or not, to try to find out just what Mr. Maloney had proposed or what his idea was for settlement.

Q. Mr. Dawson, I show you Plaintiff's Exhibit 42 and I ask you to examine that and tell me whether it refreshes your recollection. A. Yes, sir, I have seen the telegram before.

Q. That is the telegram from Mr. Underwood to Mr. Maloney asking his to submit his proposal? A. Yes, sir.

Q. Did you see the telegram in response to that inquiry from Mr. Maloney? A. Yes, sir.

[796] Q. I show you P-43 and I ask you whether you can identify that. That is the telegram from Mr. Maloney to Mr. Underwood, is it not? A. Yes, sir.

Q. Is that the reply which was received by the Local Union to be presented to the Union? A. Yes, sir.

Q. Now, was that presented to the Local Union? A. Yes, sir, it was.

Q. When? A. At the regular membership meeting, in the regular scheduled meeting for August.

Q. Do you remember the date? A. It was the first Tuesday in August. It was about the 4th. I believe it was the 5th. I am not sure, the 4th or 5th.

Q. In any event, what happened at that meeting? Was it well attended? A. Yes, sir, there was a good crowd there.

Q. Where was it held? A. In the Town Hall, in the auditorium.

Q. Can you estimate how many were in attendance at that meeting? A. I would say there were a couple

of thousand. [797] I don't know what the seating capacity is, but the place was full.

Q. All right. What happened at that meeting, please. A. Well, at that meeting the telegram was read off to the members. Mr. Underwood explained or he tried to interpret what Mr. Maloney had meant by the telegram referring to the different pages and the different clauses. He explained it fully to the members. He explained the entire situation leading up to that point, and a vote was taken.

Q. Before you get to the vote, did Mr. Underwood endorse or disapprove of Mr. Maloney's position? A. Mr. Underwood said that he—well, after giving the full discussion he said that he did not agree with Mr. Maloney's understanding of the position, that it wasn't the understanding that had been reached between he and Mr. Maloney in Chicago, and that he personally wasn't in favor of it, of this proposal, of accepting less than what we already had in the independent agreement, after being out on strike for that period of time. He said it is entirely up to the members as to what they wished to do.

By THE COURT:

Q. Just a minute, please. Do I understand, then, that [798] Mr. Underwood stated that whatever had happened in Chicago would give less than the contract that was extant with the independents? A. Yes, sir.

Q. He stated that unequivocally? A. Yes, sir.

By MR. FREEDMAN:

Q. Who else addressed the meeting, Mr. Dawson? A. Mr. McDonald addressed the meeting. He went into the history of the situation quite a lot.

Q. What did he have to say? A. He told briefly what had happened up to that point. He said that this Local Union had conducted a very successful strike, a long strike. He said that the officers, everybody, should be commended, it was one of the best Local Unions on the east coast, but he said at this point the General President had said that

he wants a settlement in here, and he recommended that the membership accept the General President's proposal.

Q. Did he say anything about pressures being exerted on Mr. Maloney? A. Yes, I am sure he did. He said that was one of the reasons, that there was considerable pressure being exerted [799] on Mr. Maloney and Mr. Maloney wanted the strike stopped and we should go along with him.

Q. Did he say by whom the pressures were being exerted? A. Well, I had heard Mr. McDonald say by whom the pressure had been exerted, though I am not sure whether it was at that meeting or not.

Q. By whom did he say the pressures were being exerted?

MR. O'BRIEN: Objected to.

THE COURT: I will overrule the objection.

A. Well, he named Mr. McGrath, he named Governor Fine, he named Mr. Meany, and the Building Trades. I think there were others, but I can't recall who they were at the moment.

Q. Did anyone else address the meeting? A. Mr. Wharton addressed the meeting very briefly.

Q. What did he have to say? A. He just said that he was in there as an observer sent in by Mr. Maloney to sit in on the meeting and that he recommended we accept Mr. Maloney's proposal.

Q. What happened? A. A motion was made to reject the proposal on the floor, seconded, and after considerable discussion a vote was taken and it was rejected unanimously.

Q. You mean Mr. Maloney's proposal was rejected [800] unanimously? A. Mr. Maloney's proposal.

Q. Was there any other motion made at that meeting? A. After that motion there were several questions, many questions asked from the floor to both Mr. McDonald and Mr. Underwood, and as a result of that somebody made a motion that we invite Mr. Maloney in to explain his posi-

tion on this matter and to give his side of the story. That motion was also adopted unanimously.

Q. Did Mr. Maloney ever come in in response to that motion? A. No, sir.

Q. What happened following that meeting? A. Well, the next thing that I know of was the letter from Mr. Maloney ordering the members to return to work within 24 hours.

Q. Was that a subject of discussion which was taken up by the Executive Board? A. Yes, sir.

Q. When? A. It was 8:00 o'clock in the morning. I understand that the communication was received in the afternoon. It was, I believe, August 11th or 12th, and there was a Board meeting called at 8:00 o'clock in the morning at the [801] Broadwood Hotel to discuss it.

Q. What happened at that meeting? A. At that meeting Mr. Underwood—

Q. Do you recall who was present? A. I think all of the members of the Executive Board were there.

Q. Was Mr. McDonald there? A. No, sir.

Q. Tell us what happened. Where was it? Did you say it was at the Broadwood? A. In the Broadwood Hotel.

Q. Go ahead, tell us what happened. A. Mr. Underwood read the communication from Mr. Maloney. He said that after receiving it he had talked to several of the members—and, incidentally, I had talked to Mr. Underwood, too, before or shortly after that communication was received. He had talked to several of the members, he had talked to his attorney and asked the attorney if there was any way to stop that order from being put into effect. He said that his attorney informed him that there was, and as a result of that, that they had worked all night and drawn up a brief or some legal papers which Mr. Underwood said that he had a copy or a part of it with [802] him, a rough draft, I believe he said.

It was read out, discussed very thoroughly, gone over completely at that meeting, and after considerable discussion one of the members made a motion that Underwood

be instructed to go ahead and file this case in court. A vote was taken on it, and it was unanimous that it be done.

Q. By the entire Board? A. Yes, sir.

By THE COURT:

Q. That you defy the order of the President and attempt to have it set aside by legal means? A. Yes, sir.

By MR. FREEDMAN:

Q. Mr. Dawson, I show you the complaint in the case of 14071, in the case of Local 542 vs. Maloney and the General Building Contractors Association, Halloran, et al., and I ask you to examine it. A. Yes, sir, I would say this is substantially the same thing that was read off at that Board meeting and discussed.

Q. Are you able to say whether the allegations in this complaint were considered at that Board meeting? [803] A. Yes, sir, the entire document was considered, the entire complaint.

Q. Was it explained by Mr. Underwood, too? A. Yes, sir.

Q. Was it discussed thoroughly among the Board? A. Yes, sir.

Q. Did all of the members of the Board understand fully the significance of the different allegations which were being made?

MR. O'BRIEN: Objected to.

THE COURT: Read the question back.

(The last question was read.)

THE COURT: Of course I will sustain the objection to that question.

By MR. FREEDMAN:

Q. Did the members of the Board ask any questions regarding the different matters alleged in this lawsuit? A. There was considerable discussion on the matter, a good deal of discussion, and there were many questions asked.

Q. Was there a vote taken? A. Yes, sir.

Q. For the bringing of the lawsuit based on the allega-

[804] tions in that complaint? A. Y

Q. And what was that vote? A. The vote was unanimous to instruct Mr. Underwood to proceed with the case.

Q. What happened after that, so far as you know? A. Well, the case was filed, and as a result, a few days later, there was—

Q. Did you attend the conferences in Judge Grim's chambers? A. Yes, sir.

Q. Do you recall the settlement which was reached in Judge Grim's chambers? A. Yes, sir.

Q. Were you present at the meeting when the proposed settlement was submitted to the membership for a vote? A. Yes, sir.

Q. What happened at that meeting? A. They accepted the proposal that had been reached and returned to work the following day.

Q. Were you in court the following day, when Judge Grim was advised of the action of the membership? A. No, sir.

[805] Q. When did you learn, following that, that supervision had been imposed again? A. I think in the late afternoon or evening following the membership meeting when they voted to go back to work.

Q. Did you have occasion to be in the office that day? A. No, sir.

Q. When did you next go into the office? A. I believe Mr. Wharton called a meeting of the business agents one or two days later. I am not sure when.

Q. Did you continue as Business Agent after supervision was invoked? A. Yes, sir.

Q. For how long? A. About the 1st of October.

Q. Were your activities or your responsibilities curtailed in any way during the period of supervision?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. Did you have the same rights or powers and duties

as a business agent after supervision was invoked as you had before?

MR. O'BRIEN: Objected to.

[806] THE COURT: Sustained.

By MR. FREEDMAN:

Q. Were there any changes made in your powers and your duties as a Business Agent following imposition of supervision?

MR. O'BRIEN: Objected to.

THE COURT: That can be answered yes or no. I will overrule the objection.

A. Yes.

By MR. FREEDMAN:

Q. What were those changes?

THE COURT: I will sustain the objection. I think we have to get a little background here to make a question like that available to you, Mr. Freedman.

By MR. FREEDMAN:

Q. Who was the supervisor, Mr. Dawson, who came in pursuant to Mr. Maloney's order invoking supervision? A. Mr. Hunter Wharton.

Q. Did you have any conversations with him? A. Yes, sir.

Q. What conversations did you have with him? A. Well, shortly after he came in he called a meeting. [807] I don't know that it was a private conversation, but among the business agents. He said that he had been sent in as supervisor for the Local Union, that Mr. Underwood no longer had any position in the Union, that he would be running the Union from then on. At that time there was some petitions being circulated by the business agents and others on the jobs getting signatures asking that Mr. Maloney revoke International supervision or conduct a referendum vote among the members to see

if they desired supervision or not, and he said he wanted that stopped right then.

By THE COURT:

Q. By the Business Agents? A. By the Business Agents and everyone that we came in contact with.

Q. He had direction of you. What direction did he have of any other member? A. Well, I assume through us he had direction through the stewards, the master mechanics, members. He said he wanted them stopped.

THE COURT: All right, go ahead.

By MR. FREEDMAN:

Q. Were they stopped? A. Yes, sir, I think they were.

[808] Q. What else did he tell you or say to you or any other Business Agents? A. Well, he said that any important decisions to be made—

MR. O'BRIEN: Excuse me. That is objected to, sir, unless Mr. Dawson was present.

MR. FREEDMAN: Oh, of course. I am only asking you to testify what you know, what was said in your presence.

THE COURT: He is testifying about Wharton's directions to him verbally.

MR. O'BRIEN: And other business agents.

By THE COURT:

Q. Is that what we are talking about? A. Yes, sir.

Q. At this meeting? A. Yes, sir.

THE COURT: All right, go ahead.

THE WITNESS: I think about the only other thing that he said at that meeting was that any important decisions, why, we would have to refer to him before we made any, that he was the supervisor, and to go to him if we had any problems.

[809] By THE COURT:

Q. What did you gather from that? Anything un-

usual? A. No, sir. I don't know what I did gather from it, Your Honor.

Q. In other words, he said important decisions should be referred to him before any action? Is that about what he said? A. Yes, Your Honor.

Q. Would you consider that at all unusual? A. No, sir.

THE COURT: Go ahead.

THE WITNESS: I think that is about all that took place at that one particular meeting.

By MR. FREEDMAN:

Q. You continued as a Business Agent, I think you said, until October? A. About the 1st of October, yes, sir.

Q. Then did you terminate your services as a Business Agent? A. Yes, sir.

Q. How did that come about? A. That was shortly after Mr. Underwood had received notice from the General Executive Board that he had been expelled. I was in the office on a Friday, which was about [810] the only day I got in the office, and there was some discussion about some jobs in Philadelphia that I wasn't familiar with. I overhead part of the discussions.

At that time there were some representatives of the Contractors Association in the Union office going through the contracts that had been signed by the independents. Mr. Leone questioned Mr. Wharton about them, and an exchange took place. I believe it was that day that Mr. Leone resigned.

I talked to Mr. Wharton later that day and told him that I didn't think I could stay on under the circumstances, and I don't know whether—one of us, anyway, said, "Well, think it over over the weekend and come back Monday."

I went back up the office Monday, had a discussion with Mr. Wharton. Several items I told Mr. Wharton at the time. I asked him what the position would be as a Business Agent. He said, "Well, Underwood has been

kicked out. He is no longer a member of the Union. Certainly you can't have anything to do with him."

I believe I asked Mr. Wharton if there was such a thing as a neutral position. He said no, that there wasn't a neutral position, that either you were for Underwood or you were against him, and I told him that [811] under the circumstances I certainly couldn't continue in the office, and I resigned.

By THE COURT:

Q. Let me ask you this question: You were there for approximately six weeks after supervision, five weeks or six weeks. Did Wharton at any time attempt to limit your activities on policing the jobs or doing what was right as a Business Agent for the Union in any way? A. No, sir, he did not.

THE COURT: All right.

Go ahead, Mr. Freedman. The thought just occurred to me, and I like to get them out when they occur to me.

MR. FREEDMAN: I wish Your Honor would.

THE COURT: Don't worry, I will. If a thought occurs, I will get it out.

By MR. FREEDMAN:

Q. Now, Mr. Dawson, did you attend the meeting in Washington in connection with the supervision?

(No answer.)

By THE COURT:

Q. The appeal from the imposition of supervision. Were you at that meeting? A. Oh, yes, sir; yes, sir.

[812] By MR. FREEDMAN:

Q. That was in Washington? A. Yes, sir.

Q. Do you recall the date A. No, sir, I don't.

THE COURT: Give him the date. There is a record.

MR. FREEDMAN: I am trying to find it myself. That is why I asked him.

Well, we can get it out of the records later, so that I won't be inaccurate about it.

THE COURT: I will give it to you. 1:00 P.M. on August 26, 1952. Due to delay in train service the parties arrived at 2:00 P.M.

By THE COURT:

Q. Is that about right? A. Yes, sir.

By MR. FREEDMAN:

Q. What happened at that meeting, Mr. Dawson? A. Mr. Carter presided at the meeting. Mr. Thomas was also present, for the International Union. Mr. Carter opened the meeting and said that he had been appointed by Mr. Maloney as the hearing officer, and I don't recall him saying anything more than that. He turned it over to [813] Mr. Thomas. Mr. Thomas asked several questions.

When Mr. Thomas started asking questions, Mr. Underwood asked if he could be represented by counsel. Mr. Thomas said no. He then asked that a stenographic record be kept, which was denied.

Mr. Thomas asked several questions and Mr. Underwood answered, I don't know how many, perhaps four or five of them. I believe there was an exchange about the amount of money paid to the Marine Trades Department for pickets. Mr. Thomas tried to tie him down on it. Mr. Underwood said, "Well, I don't have the records. I certainly can't answer."

He tried to get him to guess at it. At that point Mr. Underwood said, "Well, I think I will refuse to answer any further questions unless a stenographic record is kept."

Mr. Thomas then asked a series of questions, perhaps 15 or 20 questions, rapidly, which Mr. Underwood declined to answer for the same reason.

Mr. Thomas then asked several of the people present—

Q. Was there any record being kept at that meeting?

A. Mr. Thomas had a pad and a pencil. He was keeping notes of some sort, yes.

[814] Q. Was he marking down all the answers? A. That is one thing I noticed. When he asked Mr. Underwood, there was perhaps a yes or no answer. He would write for some time to put it down, and other questions he would write down nothing. He would get an answer from Mr. Underwood and he wouldn't write anything down. I didn't know what sort of a record was being kept.

Q. Tell us what else transpired at that meeting, will you, please. A. Well, actually, very little after that. Many questions were asked, and Mr. Thomas then asked questions of several of the people that were there, and I think nearly all of them declined to answer on the same grounds, and the meeting broke up.

Q. When you say on the same grounds, what do you refer to? A. Because no stenographic record was being kept.

Q. How long did that meeting last? A. I would say 15 to 20 minutes.

Q. Was there any reading of charges or was there any disclosure of what the Union was charged with or why supervision was invoked, at that meeting? A. No, sir.

[815] Q. Were there any witnesses produced by Mr. Thomas or Mr. Carter in support of the order invoking supervision, at that meeting? A. No, sir.

Q. Did you also attend a meeting in New York at which the charges against Mr. Underwood were considered? A. Yes, sir.

Q. That was on September 19 of that year, I believe, was it not? A. I believe so, sir. I am not sure.

Q. Did you attend that meeting? A. Yes, sir.

Q. Do you know Mr. Halloran when you see him? A. Yes, sir.

Q. Did you see him at that meeting or at the hotel the day of that meeting? A. Yes, sir.

Q. Where and when did you see him? A. After the

Executive Board meeting had ended, I was walking through the lobby of the hotel, and I saw Mr. Halloran talking to Mr. Carter. I walked by them and went downstairs, and when I was coming back up I met Mr. Carter coming down the stairs. He saw me and he said, "I didn't invite him here; I didn't have a thing to do [816] with it," and walked on by.

Q. What happened at the meeting? A. At the meeting Mr. Maloney turned the chair over to Mr. Delaney, the Fourth Vice-President, and said that he would preside at the meeting.

Mr. Delaney explained what the meeting was for, for the hearing of charges against Mr. Underwood.

Mr. Thomas took the floor and he read from some papers he had and explained certain things. He read parts from the lawsuit that had been filed and told the Board and people there that because of these things, that Mr. Underwood was certainly guilty of violating the Constitution, circulating this defamatory literature, and he talked for perhaps 15 to 20 minutes, pointing out what Mr. Underwood had done and why the Board must find him guilty.

Then Mr. Delaney asked Mr. Underwood if he had anything to say. Mr. Underwood read the answer to the charges.

At that point, or before, when Mr. Thomas finished, Mr. Underwood asked—in fact, he asked at a couple of points—if he could be represented by counsel, which was denied, and also asked for a stenographic record to be kept, which was denied. He asked that at a couple [817] of points.

Mr. Underwood then read the answer to the charges. After he finished I think three or four of the members got up and spoke very briefly.

Mr. Delaney asked several times if there was anything that Mr. Underwood had to add or if he wanted to talk any more, anything he had to say.

Mr. Underwood said, "No, I can think of nothing more to say," and at that point the meeting broke up.

Q. Did anyone speak after Mr. Underwood? A. Yes, I think two or three of the members spoke.

Q. Do you recall who they were? A. I believe Gus Toppi spoke. I think Jerry Leone. I think Mike Concordia spoke. I believe Colombo Acchione also spoke.

Q. And what did they have to say, if you recall? A. I think they were all quite short. They just said that Mr. Underwood had done a wonderful job, that the Local and everybody was 100 per cent behind him, and that the Executive Board should not punish Mr. Underwood for anything because he wasn't guilty of anything.

Q. Did you speak at the meeting? A. No, sir.

[818] Q. Did Mr. Maloney speak? A. Oh, I am sorry. Yes; he did. After Mr. Underwood spoke, Mr. Maloney did speak.

Q. What did he have to say? A. He—well, he told that he—how he had called Mr.—how he had been getting these calls from different people to try to settle the strike. He had tried to talk to Underwood; Underwood wouldn't listen to him; that he had called him out to Chicago; and he said he had worked out a settlement there.

When Underwood got back to Philadelphia, why, he came into something entirely different, said, "Then Underwood filed a lawsuit and called me a strikebreaker." That is briefly what he said. He talked for perhaps five minutes.

Q. Can you tell us who was in attendance at that time, who the judges were—that is, the Executive Board, who composed the Executive Board at that time at that meeting? A. Well, there were the seven vice-presidents. I am not sure I could name all of them.

Q. Was Mr. McDonald among them? A. Yes, sir.

Q. Did Mr. Maloney talk after Mr. Underwood? A. Yes, sir.

[819] Q. Did he deny any of the charges which were made in the answer which Mr. Underwood read at the meeting? A. No, sir. No, sir.

THE COURT: Let me see that answer. Did

Underwood in his answer say that no agreement was reached at Chicago?

Pass it up, Mr. Greenwood.

I am wondering what you mean by "denial." That is my reason.

MR. FREEDMAN: Of the various allegations in it.

THE COURT: If Underwood says in here that no agreement was reached at Chicago, and Maloney made a statement to the effect that Mr. Dawson here has stated, there certainly was a denial.

MR. FREEDMAN: Well, what I am saying is, sir, that there were charges read off. Mr. Underwood testified—

THE COURT: Well, let us just keep it to my point. That is the danger of a little looseness in the use of the English language. You said: Did he deny any of the things that Mr. Underwood said in his answer?

Now, I asked the question, and, of course, I haven't seen this. This is quite a voluminous exhibit which I will read from cover to cover before I pass on its [820] admissibility. But I am asking, did he in this—

MR. FREEDMAN: I don't think—

THE COURT: Does it state that no agreement was reached in Chicago—

MR. FREEDMAN: I don't think that—

THE COURT: —or fail to state that an agreement was reached.

MR. FREEDMAN: Well, I don't think that in that statement, sir, was any—

THE COURT: Wait a minute.

MR. FREEDMAN: I may be wrong, but I don't have any recollection that there was anything said

about an understanding between Mr. Maloney and Mr. Underwood at Chicago.

THE COURT: Wait a minute. Wait a minute. I will read it.

Well, I see here a straight denial by Maloney's statement of allegations contained in that statement; so when Mr. Dawson answers that there was no denial, I suggest you qualify it.

MR. FREEDMAN: Well—

THE COURT: I am talking in effect about a legal denial. Now, maybe I am getting a little technical, but we are dealing in a very narrow alley here, Mr. Freedman.

[821] MR. FREEDMAN: Well, I think, Your Honor, that you have got to look at the whole picture without taking any particular incidents.

By MR. FREEDMAN:

Q. Let me put it this way, then:

Mr. Dawson, other than what you say Mr. Maloney stated at that meeting, did he say anything else or did he deny anything else that Mr. Underwood said at that meeting?

MR. O'BRIEN: Well, I don't fully understand the question.

THE COURT: Well, I do. I am the one to be educated.

THE WITNESS: Mr. Maloney told the story, his story of what had happened in the strike, and then the only thing that he added to that, that I can remember, is that in this lawsuit that Mr. Underwood filed that he was called a strikebreaker. He denied that he was a strikebreaker.

By THE COURT:

Q. Well, now, let me ask you the question. Maloney's story of what happened at Chicago differed substantially from what Underwood said, didn't it? A. Yes, sir.

THE COURT: All right.

[822] By MR. FREEDMAN:

Q. Now, what story did he tell at that meeting, regardless of what he might have said elsewhere? What story did Mr. Maloney tell at that meeting? What did he say specifically? A. Well, I am not sure that I can remember what he said specifically.

Q. As closely as you can. A. He didn't talk very long. He said that people had been calling him, putting pressure on him to settle the strike. He had called, talked to Mr. Underwood on several occasions, that — tried to get Mr. Underwood to settle. He had sent in an observer, and there had been a big wrangle over that. He then called Mr. Underwood to Chicago to try to iron it out there, that the—Mr.—I believe he said there was an agreement reached there, and when Mr. Underwood returned to Chicago, why, he started out all over again—

By THE COURT:

Q. Philadelphia, you mean? A. Returned to Philadelphia. I am sorry. Thank you.

— returned to Philadelphia, that that started out all over again. That was briefly what Mr. Maloney said at that time.

Q. Well, what did you gather from that? Was the inference you drew that Underwood repudiated certain agreements [823] he had made at Chicago? A. Well, there was certainly two conflicting stories being told, Your Honor.

THE COURT: O.K.

Go ahead, Mr. Freedman.

By MR. FREEDMAN:

Q. Was there anyone else who testified after or who gave any statement after Mr. Maloney? A. Sir, I don't think so. Mr. Maloney may have testified or spoken before the other members—I am not sure—but aside from those that were mentioned, I don't believe anyone spoke.

Q. Well, the only ones who spoke against Mr. Underwood were Mr. Thomas and Mr. Maloney; is that correct? A. Yes, sir.

Q. Did the Executive Board ask any questions during the proceedings? A. No, sir.

Q. Now, Mr. Dawson, are you familiar with most of your members in Delaware? A. Yes, sir.

Q. Are you able to state whether or not they desire supervision or whether they desire autonomy? A. Yes, sir.

[824] Q. What do they desire?

MR. O'BRIEN: Objected to, sir.

THE COURT: I sustain the objection until I know a little more about the basis of his knowledge.

By MR. FREEDMAN:

Q. I will ask it this way: Have you talked about supervision and this lawsuit to the various members in Delaware? A. Yes, sir. I have.

THE COURT: And to what members and when?

MR. FREEDMAN: Sir, I didn't get Your Honor's statement.

THE COURT: I said, to what members and when?

By MR. FREEDMAN:

Q. Can you tell us that, Mr. Dawson? A. I have talked to nearly all of the members at one time or another at different places, on the job, club meetings.

Q. And have you discussed with them on these various occasions the question of supervision and the questions involved in this lawsuit? A. Yes, sir. I would say it is our main topic of conversation.

Q. And what do they say?

MR. O'BRIEN: Objected to, sir.

THE COURT: I sustain the objection to the [825] form of the question.

I am not taking any general statements in a matter like this, Mr. Freedman. You will give the name of the person to whom it was said and when. That is the purpose of my question. We are reaching a crucial point in this case, and Mr. Dawson has to be prepared to name the members and tell the circumstances, and what they said.

By MR. FREEDMAN:

Q. Have you any knowledge regarding the number of men that you have got in Delaware? A. Yes, sir.

Q. About how many would say you have got there? A. Live in Delaware or work in Delaware?

Q. Work in Delaware. A. I would say there is probably three to four hundred people work in Delaware normally.

Q. And of that number how many would you say you have spoken to about these matters that are under consideration now? A. I would say 75 to 80 per cent of them.

Q. And over what period of time have you talked to these men? A. Over the past four and a half years, since the lawsuit was instituted.

[826] Q. And what do these men say about this lawsuit and about supervision?

MR. O'BRIEN: Objected to, sir.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. Can you name names, Mr. Dawson? A. Yes. I can names. I certainly couldn't name three or four hundred.

THE COURT: Mr. Freedman, there is a time in the pretrial proceedings in this case when I specifically said that people had to stand up to be counted, and I don't propose to allow you to establish class action by other than direct testimony.

MR. FREEDMAN: Well, sir—

THE COURT: I am pointing that up at this

point. We have reached the crucial point in the Dawson case.

MR. FREEDMAN: Well, I think it is sufficient, sir, that if we establish that this man, who is a representative in the area, he has been in contact with these men, he knows what these men say, and he is a proper person who can adequately represent the class —I think, sir, that that in itself would be sufficient to establish, properly establish a class action.

[827] THE COURT: You would scream to high heaven, if you were on the reverse side, as an infringement of a right that is guaranteed to anyone that they can face their accusers.

MR. FREEDMAN: Well, the very purpose, sir, of the class action is not to have to name all of the people who are involved.

THE COURT: That is exactly right; but we have to know who they are. You have limited yourself in this case, and we will go on, and I have ruled on that question.

MR. FREEDMAN: Well, may I make an offer of proof, then, sir?

THE COURT: You may.

MR. FREEDMAN: I offer to prove by this witness that he has been in touch over the period of the last four years since supervision has been invoked with approximately 75 or 80 per cent of the men in Delaware, and that these men—and he can state that these men do not desire supervision, and that they are in full support of this lawsuit and the objectives sought in this lawsuit.

MR. O'BRIEN: If that is the offer of proof, sir, I object to it.

THE COURT: For reasons which have been previously stated of record by the Court in both an opinion and [828] today, I will sustain the objection.

By MR. FREEDMAN:

Q. Now, Mr. Dawson, you have attended meetings in Philadelphia here of the general membership since supervision was invoked? A. Yes, sir.

Q. During those meetings have you discussed with the various members from areas other than Delaware the subject matter involved in this lawsuit, supervision? A. Well, I wouldn't say during the meetings. Before and after the meetings I have talked to a lot of the people I know; yes, sir.

Q. About how many would you say you have talked to during this period since supervision has been invoked? A. I would say I have probably talked to 250, 300 different people.

Q. Outside of your Delaware area? A. Yes, sir.

MR. FREEDMAN: May I make an offer of proof with respect to that, sir?

THE COURT: Well, wait a minute.

By THE COURT:

Q. Were you one of the petitioners to have this Court enter an order stopping the nomination and election of [829] officers by Local 542 under the auspices of the International Union? A. Our attorney entered that.

Q. I asked you, were you one of the petitioners to have me stop an election on April 1, 1955? A. Yes, sir.

THE COURT: I think we will recess at this time. We are getting into some complications here. How can a person object to something that he asked the Court to do at this point?

MR. FREEDMAN: He is not objecting to anything, sir.

THE COURT: Well, he is objecting to supervision and you maintained supervision.

MR. FREEDMAN: We are objecting to supervision. We don't want any part of supervision.

THE COURT: Well, you moved this Court and I granted your motion to restrain an election.

MR. FREEDMAN: Sure; but we didn't want to continue supervision. At no time did we take the position—

THE COURT: Well, how are you going to get off supervision unless you have an election of officers?

MR. FREEDMAN: In order to maintain the status quo and not damage irreparably existing rights Your Honor |830| would have to revoke supervision. If you are going to have an election it has got to be done by the people who are properly entitled to vote, and the people who are entitled to run should be permitted to run, and the only way you can do that is to revoke supervision.

THE COURT: It appeared to me that it was about off at that time that you moved in to stop the election.

MR. FREEDMAN: What, supervision? Oh, no.

* * * * * * *

|831| By MR. FREEDMAN:

Q. Mr. Dawson, just before lunch I think that I had asked you whether you had been in touch and discussed the questions of supervision and the subject matter of these lawsuits with other members outside of the Delaware area. I think you had answered in the affirmative and given a figure A. Yes, sir.

Q. Do you recall what figure you gave? A. I think I said between 250 and 300, approximately. That's only a guess.

Q. Did they express to you their desires and feelings regarding supervision and the subject matter of this suit, including the reinstatement of Mr. Underwood?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. What did these men say to you regarding the subject matter of supervision and the reinstatement of

Mr. Underwood?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

MR. FREEDMAN: On the same ground that Your [832] Honor ruled on before, sir?

THE COURT: I have to have some identification. I am not taking percentages in an important matter like this. I want some identification, the same as I told you in the pretrial proceedings. I cannot form any conclusion from statements made of 250, generalized, of a group of 400, and I don't know what questions were asked. I don't know exactly what went on. I am not permitting this to develop into a true class action without identifying the members of the class, and that is under Judge Maris' or Goodrich's decision in the Giordano case.

MR. FREEDMAN: Well, if there be any doubt about the representation of the class, sir, I would respectfully ask Your Honor to appoint a master to conduct a secret ballot to determine whether or not the men in the locals, the various branches of the local and the local itself, desire supervision or desire it to be revoked and whether they prefer the reinstatement of Mr. Underwood.

THE COURT: At this time I refuse your motion.

By MR. FREEDMAN:

Q. Mr. Dawson, in discussing these matters with the other members that we had reference to, will you state to the Court what questions you asked them or what conversations were carried on?

[833] MR. O'BRIEN: That is objected to, sir, unless those members with whom Mr. Dawson had these conversations are first identified.

THE COURT: I will sustain the objection.

MR. FREEDMAN: I was trying to develop the

nature of the questions, sir, without giving the answers as yet.

THE COURT: If that is what you are going to do, and then identify the people to whom they were asked, I will permit you to go ahead.

MR. FREEDMAN: I do not intend to ask the witness to identify the people, sir.

THE COURT: Very well, I sustain the objection.

MR. FREEDMAN: I didn't want to get the question in on the basis of any misrepresentation on my part, sir.

I assume I have an exception to all of Your Honor's rulings?

THE COURT: Of course you have, and you are entirely free to make an offer of proof.

MR. FREEDMAN: I was going to do that now.

I offer to prove, in view of Your Honor's ruling that all of these people that Mr. Dawson spoke to expressed themselves unequivocally in favor of these lawsuits, [834] in favor of autonomy and against supervision, and in favor of reinstating Mr. Underwood.

MR. O'BRIEN: Objected to, sir.

THE COURT: I sustain the objection.

By MR. FREEDMAN:

Q. Mr. Dawson have you been attending any meetings of the general membership or other meetings in Philadelphia of the local union since supervision was invoked?

A. Yes, sir.

THE COURT: So that I will get the record clear, I have looked over the record since I left here, and I have concluded that the question I raised just before recess is not in the notes, but the question of the injunction that I entered preventing an election, you don't have to worry about that any further. I don't think that is in the case.

By MR. FREEDMAN:

Q. How many of those meetings have you attended? A. Nearly all of them.

Q. Can you tell us how frequently those meetings have been held? A. Well, I think there were one or two meetings after supervision was imposed. There was a period of some two years when there were no meetings. I think they started again [835] in January of 1955 and have been held nearly every month since then.

Q. And you have attended nearly all of those? A. Yes, sir.

Q. Has there been any difference in the conduct of the meetings between those which were conducted during autonomy and those following the imposition of supervision in 1952?

MR. O'BRIEN: That is objected to as being immaterial. At this time I would also like to object to any further testimony in the Dawson case until the class is identified, since that seems to be a quid pro quo—

THE COURT: Well, we are trying two cases here, Mr. O'Brien, and what may be relevant in one may very well overlap in the other, so I will overrule your objection.

THE WITNESS: What was the question?

The reporter read as follows:

"Q. Has there been any difference in the conduct of the meetings between those which were conducted during autonomy and those following the imposition of supervision in 1952?"

A. Yes, sir.

Q. Will you tell us what the differences have been. A. Well, at the present meetings, number one, we have never had an opportunity to vote on a contract or a collective [836] bargaining agreement. Anybody that gets up and speaks and is critical of the present administration is usually either told to sit down and shut up or is shouted

down by the crowd that is along the side lines. The members have very little chance to express themselves unless they are in accord with the administration that is now in.

Q. This so-called crowd on the side lines that you talked about, is that any definite group of men? A. Yes, sir, they are usually the same people.

Q. How many do they constitute? A. Oh, I would say anywhere from 10 to 20.

Q. Do you know who they are? A. I don't know. Most of them I don't know. I know them to see them, but I don't know their names.

Q. You know them to see them but you don't know them by name; is that what you mean? A. Yes, sir.

Q. Do you know any of them by name? A. Yes, there are a few.

Q. Will you name them, please. A. Frank Lentino is one that is usually in the group.

Q. That is Frank Lentino, L-e-n-t-i-n-o? A. Yes, sir. There are several of them, but I really don't know them that well. They are all from Philadelphia. I really [837]. don't think I would know their names, could identify them as such.

Q. Will you tell us what this crowd does that you indicated before. I mean, what specifically do they do? A. Well, anyone that gets up and speaks or asks a question or questions about the Welfare Fund or anything pertaining to the operation of the union, they immediately start shouting, "Sit down, shut up," hissing, booing, cursing, anything to stop the question from being asked. There are very few questions asked that get answered, because of this crowd, and in most instances the Chair will rule, "Well, it is obvious the members don't want to hear you, so sit down."

Q. Does the Chair do anything about this crowd? A. No, sir.

Q. Has there been any objection to the Chair about this crowd? A. Yes, sir.

Q. What objections have been made and by whom? A. Well, in many instances and by many of the members. When somebody will say, "Well, you told me to sit down and shut up. Why don't you quiet down that crowd along the side lines?" the Chair says, "Well, the members just don't want to hear you, that is all."

Q. In this crowd do they use profane language? [838] A. Yes, sir, they use about every language known, I would say.

Q. Sir? A. They use about every language known.

Q. Do they make any threatening remarks or gestures? A. They have on occasion, yes, sir.

Q. And have they committed any violence?

MR. O'BRIEN: I object to the leading questions, if Your Honor please.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. Well, will you tell us just what kind of statements they made, please. What do they say? Tell us specifically what they say. A. Well, usually, the usual chime is, "Oh, sit down and shut up. We don't want to hear from you. You are an Underwood man. Shut up."

There are any number of remarks, but that's usually the basis of it. A lot of times it will just be cat calls and whistles and boos, anything to disrupt the speaker.

Q. Well, what kind of profane language do they use? A. They use practically every kind there is—cursing, calling people names, a lot of names kicked around in Italian. [839] I don't know what they mean. Apparently they are pretty insulting.

Q. Have they committed any violence on any of the members? A. Yes, sir.

Q. That you personally observed? A. Yes, sir, I observed one of them.

Q. Which one did you observe? A. That was Whitey Kaye.

Q. When and where was that? A. It was at a meet-

ing in the Broadwood Hotel, oh, sometime in the middle of 1956. I don't know which month.

Q. And what happened? A. I believe Bill Hogan had the floor and was questioning Mr. Lavery or asking him some questions about the Welfare Fund. The group along the side started hollering, "Sit down. Shut up. We don't want to hear that."

Whitey Kaye was sitting there, and he jumped up and he said, "Well, let the man speak. He has a right to."

An exchange took place between he and the fellow that they called Midget Wolgast. That is what I have heard him referred to. I understand that is not his name. An exchange took place and a fight started.

Q. Did you see it? A. I was in the back of the room. I wasn't close to it. [840] I saw it, yes.

Q. Tell us what you saw, please. A. Well, Wolgast came toward Kaye, and there were some blows exchanged, and several people jumped in and broke the fight up.

The meeting continued, and immediately at the close of the meeting—Wolgast had left the meeting room shortly after the fight—immediately at the close of the meeting Wolgast had come in through a side door, and Kaye was still sitting in his chair, and he made a leap across two or three chairs, landed on Kaye's back, and started punching him and kicking him, and the fight started again and again it was broken up.

Q. Did anyone else participate in that? A. Well, there were many people involved in it or that jumped into it. I don't know that anybody else actually participated.

Q. You mean that you saw? A. That I could see from where I was.

Q. At these meetings do they report on the contract negotiations or the contractual relationship that they have with the contractors? A. Well, they have mentioned on one occasion, they said that the contract was being extended for two years. A [841] question was asked whether we had a right to accept or reject the contract,

and they said absolutely not, we had no right to vote on the contract whatsoever.

Q. Did they tell you what it was? A. Yes. Well, there was a vote on it, not an acception or rejection, but on whether the—I believe it was 10 and 8½ cents an hour for a two-year period, as I recall it, and the only question was whether the 8½ cents, I believe, would be included as a pension plan or whether it would go into the pay envelope. That was the only voice we had on it.

By THE COURT:

Q. What was that? On a renewal contract at one time? A. On a renewal in 1955, sir.

Q. And the question submitted was whether the entire 10 cents went into the pension fund or 2½ cents went into the pay envelope? Straighten me out on that. I am a little confused. A. It was a two-year agreement providing for a 10 cent an hour increase the first year and an 8½ cent an hour increase the second year, which we didn't have any choice on acception or rejection of the contract. A vote was taken, and I am not sure it was at that meeting, Your Honor, but a vote was taken as to whether the 8½ cents would go in the pay envelope or would be put into a pension fund.

[842] Q. In other words, the increase for the second year, the question presented was whether it would be added into the pension fund rather than actually be an increase to you; is that it? A. Yes, sir, but we didn't have a pension fund. It wasn't adding into the pension fund. It was whether one would be created with that 8½ cents an hour.

Q. Oh, a pension fund? Are you distinguishing it from the Welfare Fund? A. Yes, sir.

Q. This is a new idea being added? A. Yes, sir.

Q. The Welfare Fund continued in existence, didn't it? A. Yes, sir.

Q. And has continued throughout all these years from 1951 on? A. Yes, it has, sir.

Q. From 1950 on? A. Yes, sir.

THE COURT: All right.

[843] By MR. FREEDMAN:

Q. Has there been a pension fund established yet? A. No, sir.

Q. Do you know what contract you are working under today? A. Well, I know what contract I am working under on my job, yes, sir.

Q. But I mean what generally prevails in the jurisdiction. A. No, sir, there is a lot of question about what the contract is.

Q. Do you know of any changes in the contract which have been less than what the membership had before supervision was imposed. A. Yes, sir.

Q. Will you tell us about those, please? A. Well, one—

MR. O'BRIEN: Excuse me. I did not hear the whole question. Would you read it back, please.

(The reporter read as follows:)

"Q. Do you know of any changes in the contract which have been less than what the membership had before supervision was imposed?

"A. Yes, sir.

"Q. Will you tell us about those, please."

[844] MR. O'BRIEN: Objected to.

THE COURT: Overruled.

By THE COURT:

Q. Tell us what you had before that you don't have now. Give us first what you had and now what you don't have, as many items as you may have knowledge of. A. We had a guaranteed forty hours under local antonomy. We have been told—and I have never seen a contract—we have been told that the contract now does not contain guaranteed forty hours on—

MR. O'BRIEN: That is objected to, sir, as hearsay.

THE COURT: Well, I will overrule it. We will find out by whom he has been told.

Go ahead, Mr. Dawson.

THE WITNESS: We no longer have a guaranteed forty hours on highway and heavy construction.

By THE COURT:

Q. Now we come to the point. What is your source of information on that? A. That has been discussed at the Union meetings and has been admitted to by Mr. Lavery, but nobody has ever seen a contract, that I know of. He has been asked to produce the contract, been asked to read it off, which he has [845] refused to do.

Q. All right, what else? A. Well, in that same agreement, which I have never seen, I understand that there are many, many conditions gone. I also understand that the wage rate has been dropped about a dollar an hour from what we had previously. Again I have never seen the contract and we have not been able to find out.

Q. Have your wages been reduced a dollar an hour? A. No, sir.

Q. Do you know of any individual's whose have? A. Yes, sir.

Q. Who? A. The individual's name?

Q. Yes. A. Whitey Kaye is one that I can think of at the moment.

Q. Is he in court? A. No, sir, I don't believe he is today.

Q. What do you know of his condition that reduced his wage rate a dollar an hour? A. He was sent out by the Union agent on a job, I believe, for the Standard Bithulitic in Wilmington, Delaware. I am not sure whether he was told beforehand, but, anyway, the normal rate for the machine that he was on was $3.40 an [846] hour in the agreement we had previously — I believe it was $3.40; I could be wrong on that — but the rate that he received was $2.40 an hour.

Q. If you are not sure of what the rate was before, how do you make the statement that it is a dollar less?. A. I think I am sure, Your Honor, but I couldn't swear to it.

Q. You are just giving your best recollection? A. Yes, sir.

Q. All right, anything else? A. Well, in that same agreement I understand that many of our conditions were given away or were taken away from what we had previously. I couldn't enumerate them because again we have not seen that agreement.

By MR. FREEDMAN:

Q. Do you keep in touch with the members in Delaware? A. Yes, sir.

Q. Are you able to state what the conditions are on various other jobs? A. Some of them I am able to state.

THE COURT: You mean he has had reports from other people, not his personal observation?

MR. FREEDMAN: Yes, Your Honor.

[847] THE COURT: All right, go ahead.

By MR. FREEDMAN:

Q. Can you state whether or not the contract is being enforced on other jobs? A. From the information I get—

MR. O'BRIEN: Excuse me. That calls for yes or no.

THE COURT: I think that is a fair request. You may answer yes or no. The question is as to knowledge only, Mr. Dawson. Do you have any knowledge?

THE WITNESS: Yes, sir, I have knowledge of it.

THE COURT: All right, go ahead, Mr. Freedman, the next question.

By MR. FREEDMAN:

Q. Is it being enforced?

MR. O'BRIEN: Objected to.

THE COURT: Sustained, until we know the source of his knowledge.

By MR. FREEDMAN:

Q. What is the source of your knowledge, Mr. Dawson? A. From talking to the members in there that have worked on these various jobs.

|848| Q. And you discuss these problems with the members as an unofficial representative, do you? A. I discuss it with them, yes, sir. They contact me and ask me about it.

Q. Do they come to you and report to you these various matters? A. On many occasions, yes, sir.

Q. And from this information which you have obtained are you able to state whether or not the contract is being enforced on the other jobs? A. On some of them it is; on some it is not.

MR. O'BRIEN: Objected to, sir.

THE COURT: Well, if you are going to wait till the answer is in, I am going to overrule it.

I will sustain that objection.

By MR. FREEDMAN:

Q. Has the membership been given any reports—

THE COURT: Just a minute. I don't want to interrupt your train of thought. Please remember what you are talking about.

By THE COURT:

Q. You have had opportunity over the past four years to observe conditions on your own jobs that you have been |849| working on? A. Yes, sir.

Q. What is your observation on these jobs? You are in a position to give us personal information on that. What is your observation on the enforcement of contract conditions on the jobs that you have been on yourself, Mr. Dawson? A. The contract is being enforced on my job, sir.

THE COURT: All right. I am sorry, Mr. Freed-

man. I thought that was something peculiarly within his knowledge, and I wanted to get it.

By MR. FREEDMAN:

Q. Has the membership been given any reports on negotiations for new contracts from time to time? A. No, sir. I haven't heard any.

Q. Have you heard any reports on negotiations for new contracts at any of these meetings? A. No, sir.

Q. Has the Union conducted any meetings of the membership in Delaware? A. Yes, sir.

Q. When and where? A. I believe they started in January of 1955 until I [850] think April of 1955, in Carpenters Hall in Wilmington, Delaware.

Q. How frequently do they hold those meetings? A. Once a month.

Q. And how were those meetings conducted?

THE COURT: Let's find out who conducted them, first.

By MR. FREEDMAN:

Q. Who did conduct the meetings? A. Mr. Lavery.

Q. And what is Mr. Lavery's position in the Union? A. He is the assistant supervisor.

Q. And he was formerly a business agent under Mr. Underwood? A. Yes, sir.

Q Tell us how those meetings were conducted in Delaware? A. Well, they were meetings. No business was transacted. I don't think a motion was ever made or accepted. It is hard to describe them as meetings, really. Mr. Lavery would open up with a few words and ask if there were any questions or general discussion of what might be going on. Members would ask questions. They were not able to get [851] answers to the questions. We were not able to find out a great deal about what was going on.

Q. Was there any heckling at those meetings? A. No, sir.

Q. Were those meetings attended by any of the crowd that you identified before? A. Yes, sir.

Q. How many? Can you identify any of them? A. I don't know. They would usually be, I would say, ten to twenty that would come down from Philadelphia with Mr. Lavery and sit in back of the hall. I couldn't identify them by name, no, sir.

Q. Would they station themselves in any particular places? A. Usually in the back corner of the hall.

Q. Did they ever participate in your meetings? A. Very little.

Q. Now, why were the meetings terminated?

MR. O'BRIEN: That is objected to.

THE COURT: He may have personal information. If he has, he may answer it. Overruled.

A. I am not sure that I know why they were terminated. Mr. Lavery said that he wasn't going to hold any more meetings in Delaware.

|852| By MR. FREEDMAN:

Q. Was there any incident involving Mr. Lavery? A. Yes, sir.

Q. Will you tell us about that, please. A. At one of the meetings he was being questioned by Richard Clark about something, and I don't remember what the question was at the moment, and, anyway, an exchange took place, and Mr. Lavery said, "Well, Young Fellow, you are not big enough to talk to me like that."

Frank Lentino jumped up and said, "Well, he is about my size, Hank. Let me take him out."

Q. What was the exact language he used, that you can recall? A. I think he said, "The S.O.B. is about my size. Let me take him out."

I think that was the exact language.

Q. Then what happened? A. Well, Lentino and several more jumped up and started toward Clark. Of course, everybody jumped up and got in front of Clark, and at that point the meeting broke up.

Q. Was there any action taken as a result of that incident? A. Yes, sir.

[853] Q. What action was taken? A. I believe Mr. Clark had a warrant sworn out for Mr. Lavery's and Mr. Lentino's arrest on threatening bodily harm.

Q. Were they arrested? A. Yes, sir.

Q. When? A. I believe the following month after the scheduled meeting.

Q. Were there any meetings held after that? A. No, sir.

Q. Did you ever write to the Union Hall for information on the contract? A. Yes, sir.

Q. When did you do that? A. I believe it was early in 1956, when this new contract, where we lost our forty hours and the wages were lowered. We had heard about it from the State of Delaware. I wrote a very short letter to Mr. Lavery stating that we in Delaware had heard that a new contract had been signed and we would like to, at his convenience, have an opportunity to examine that contract.

Q. Did you get a response to that? [854] A. No, sir.

Q. He never replied or communicated with you in response to that letter at any time? A. No, sir.

Q. Is there any unemployment in Delaware now among your membership, that is, among your Delaware members? A. Yes, sir.

Q. Is it substantial?

MR. O'BRIEN: Objected to.

THE COURT: If he knows, he may tell. Overruled.

A. Yes, sir; I would say there is.

By MR. FREEDMAN:

Q. Do you know whether there are any jobs in Delaware which are being manned by others from outside the state? A. Yes, sir.

Q. Will you tell us about that, please.

MR. O'BRIEN: Objected to.

THE COURT: Anything that he personally knows, he may tell. Overruled.

A. There are several jobs that have none or only one or two men from Delaware on.

By MR. FREEDMAN:

[855] Q. Will you name them, please? A. The job at Claymont Steel. I am not sure. This is only information that has been given to me. I understand that there are eight—

By THE COURT:

Q. Wait a minute. Do you know that of your own knowledge? That was the basis of the objection. A. Only what the members have told me, Your Honor.

THE COURT: All right, I will sustain the objection to your testifying to that.

By MR. FREEDMAN:

Q. Do you know other incidents or situations of your own knowledge? A. No, sir.

Q. Do you have occasion to see any outsiders working on these Delaware jobs? A. Occasionally.

THE COURT: When you say "outsiders," you mean people that he knows live without the State of Delaware, working in Delaware, members of the Union?

MR. FREEDMAN: Yes, sir, and who do not normally work in Delaware.

THE WITNESS: Yes.

[856] THE COURT: Well, if he knows that, it is all right, too.

THE WITNESS: Yes, sir.

MR. FREEDMAN: Can you answer that question now, Mr. Dawson?

THE WITNESS: Which question?

THE COURT: Read the whole question, Mr. Schuman. Get it all together and read it in one question.

(The reporter read as follows:)

"Q. Do you have occasion to see any outsiders working on those Delaware jobs?

"A. Occasionally.

"THE COURT: When you say 'outsiders,' you mean people that he knows live without the State of Delaware, working in Delaware, members of the Union?

"MR. FREEDMAN: Yes, sir, and who do not normally work in Delaware.

"THE WITNESS: Yes.

"THE COURT: Well, if he knows that, it is all right, too.

"THE WITNESS: Yes, sir."

By MR. FREEDMAN:

Q. Do you understand the question now? [857] A. No, sir, I don't.

Q. Let me rephrase it. I can see that it is one of those lawyer's questions that is a real puzzle to the layman. Please excuse me; I will try all over again.

Do you have occasion to visit other jobs from time to time, Mr. Dawson? A. No, sir.

Q. How do you get your information about these other jobs? A. The members call me, come and see me, meet at the club, discuss it.

Q. Men who work on these other jobs? A. Yes, sir.

Q. And do they report to you in connection with the employment of men brought in from the outside on the jobs? A. Yes, sir. That's where I get my information.

Q. Based on those reports, are you able to tell us how

many Delaware men are employed on those projects and how many outsiders are employed? A. Yes, sir.

Q. Will you give us those figures, please?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

[858] By MR. FREEDMAN:

Q. Mr. Dawson, have you had any difficulty in connection with the payment of dues? A. Yes, sir.

Q. Will you tell us what that difficulty has been? A. On several occasions I paid my dues by mail, sent in three months' dues at a time.

Q. Is that a common practice? A. It is common for me. I think that is the usual procedure for most people.

Q. How long have you been following that practice? A. Ever since I came in the Union.

Q. Go ahead. A. Shortly after the Local was put under supervision, a group of the members were told that the dues would only be received one month at a time, we could only pay dues one month at a time. That continued, oh, for a period of perhaps six or nine months, and they again started accepting dues three months in advance.

On two different occasions since that time—well, during that time, the dues, if they were sent in, they would be held over, and the dues stamps would usually show that the payment was late for the [859] month it was stamped for.

Q. Do you have your dues book with you? A. Yes, sir.

Q. Will you give us those specific instances and tell us when you sent your dues in and when it was marked in your book, please? A. Well, this dues book I have starts for July, 1955. It does not include the period when they were only accepting dues one month at a time. In November of 1955 my dues book is stamped November 4 for the month of November.

Q. That means you were late? A. Yes, sir.

Q. And when did you actually send your dues in? A. I don't remember on that one, sir.

Q. Well, do you have any recollection as to whether you sent it in before the due date? A. Yes, I remember that it was some time before November 4, but I don't remember the date on that one.

Q. Can you give us your best recollection as to how long before November 1 you sent it in? A. I would rather not on that one, sir. I don't remember. There is one here that I do remember the date on.

[860] Give us that one, will you, please? A. In July of 1956 my dues book is stamped for the month of July, for July 6. That was sent in on June 14. The check was dated June 14.

Q. You sent it in on June 14 and it was stamped July 6? A. Yes, sir.

Q. Meaning that you were six days late? A. Yes, sir.

Q. What would be the significance of that notation in your dues book?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. It means that I would not be eligible to run for office in the Local Union for a period of one year.

By THE COURT:

Q. Do you have your check that was returned?

A. I don't have it with me, Your Honor. I have it.

THE COURT: It occurs to me that might be important, Mr. Freedman.

By MR. FREEDMAN:

Q. Mr. Dawson, will you get that check for us and bring it in with you tomorrow? [861] A. Yes, sir.

Q. Try to get the other one too, the November date, will you, please. A. Yes, sir.

Q. One more question, Mr. Dawson. Do you desire supervision? A. No, sir.

RE-DIRECT EXAMINATION

By MR. FREEDMAN:

[935] Q. Mr. Dawson, I show you P-68, and I ask you to please first identify that letter. A. That is the letter that I wrote.

Q. Go ahead. A. That is the carbon copy of a letter that I wrote to Mr. Lavery.

Q. Will you read it to the Court, please? A. Dated May 26, 1956, to Harry W. Lavery.

"Dear Sir and Brother:

"It has been brought to the attention of the members in Delaware that a new contract has been signed by you. A group of members have asked me to contact you and make arrangements for the group [936] to examine this contract some evening in the very near future.

"Please advise when this may be done.

"Fraternally yours,

"Homer G. Dawson,
"1500 Seton Drive,
"Wilmington 3, Delaware."

Q. Did you ever get any response to that letter? A. No, sir.

[940] COLOMBO ACCHIONE, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. How old are you, Mr. Acchione? A. Fifty-four.

Q. Where were you born? A. In Italy.

Q. When did you leave Italy to come to America? A. Around September, 1920.

[941] Q. What did you do in Italy before you came

over here? What kind of work did you do? A. Well, from when I was eleven years old I went to Rome to work.

Q. What kind of work? A. I worked on the railroad, making the railroad from Rome to Naples, but I worked in the Rome part.

Q. When you came over here what kind of work did you start to do? A. I started labor first over here, and I started to drive a truck, and then I started running construction equipment. I did run a dingy in Italy, but on this railroad that I was—

Q. You ran a dingy in Italy? A. Yes. I worked on a crushing machine to crush stone for the railroad.

Q. You mean in Italy? A. Yes.

Q. When did you become a citizen? A. In 1927. I started way before that, you know, but in 1927, that's when I actually got my citizen papers.

Q. Will you tell us, from the time you came over here, what kind of work you have been doing, Mr. Acchione, please? [942] A. Since 1922 I have been running a shovel, back hoe, grader.

Q. Will you tell the Court what kind of equipment this is. What kind of shovel, what kind of back hoe, and so on? A. Well it is a shovel that is used in the highway and sewer, put up steel, big machine, yard and a half, two-yard machine, three-quarter-yard machine; that they handle fifteen, twenty tons, thirty, forty-five tons lift.

Q. What other kind of equipment did you work on and on what kind of jobs? Will you just tell us until the present day, from the time you came over here. A. Well, I run quite a lot. I worked in the Drydock Association and Philadelphia Navy Yard. I was working on the trim barge using the hoist. I had men in the water there all the time. The driver used to go down, and, well, the man that I had on the hoist there used to be in the water all the time, depend on me. I could drop him in the water. I moved by signal, by radio.

Q. Did you ever join the Operating Engineers Union? A. Yes, I did.

Q. When did you join it? A. I think it was in 1937, but I got my book in 1938.

[947] Q. Now, when you joined the union in 1937 or 1938 do you remember what the union was then under supervision A. Yes; I do.

[948] Q. Who was the supervisor? A. The supervisor was Joseph Fay.

Q. Did you ever see him? A. Yes; I did.

Q. And who was the assistant supervisor? A. Jasper White.

Q. Do you remember him? A. Yes.

Q. Did you attend the meetings during that period of supervision? A. Mostly every meeting except when when I work in Washington that I was away from home.

Q. Do you remember William Carter? A. Yes; I do.

Q. Who was he? A. He was business agent of Local 825 in Newark, New Jersey.

Q. Was he connected with Joe Fay in any way? A. Yes; he was.

MR. O'BRIEN: Objected to.

THE COURT: Overruled. If he knows.

THE WITNESS: Yes; he was. I saw him many times.

[949] By MR. FREEDMAN:

Q. What connection did he have with Joe Fay?

MR. O'BRIEN: Objected to.

THE WITNESS: Well, he was from the—

THE COURT: If he knows. Go ahead.

THE WITNESS: Well, he was from the same local. Local 825 was supposed to be Joe Fay's local.

By MR. FREEDMAN:

Q. Now, when you attended the meetings in this area of your Local 542 did you ever see Joe Fay and Jasper White and William Carter? A. Yes; I did.

Q. How were those meetings conducted, if you remember?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

THE WITNESS: Not very democratic.

By MR. FREEDMAN:

Q. What do you mean by that? A. Well, members that got up and asked questions that was concerning the membership, there was—the job wasn't manned right or the contract wasn't in force, he didn't get no answer, or you get some other member, he doesn't know what he is talking about, he is a scab, or something like that, [950] and sits you down; but if you went along, praised the leaders of the organization, then he was a good man.

Q. Did Joe Fay ever speak at these meetings? A. Yes; every time he came here he talked. He spoke himself. He run the meeting.

Q. And how did he conduct the meeting? Did he give everybody a chance to talk?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. How did he conduct the meeting? A. Well, I said there when he conduct the meeting he spoke most of the time, and I think wasn't many that had a chance to speak. Some of them did speak. Some of them did say something. Well, was a fellow by the name of Nick Distefano. He got up many time and that he wasn't, well, pleased the way the local was running here, and he would want to have an election and have a leader in this organization that would be choosed by the membership, and I remember at that time that Joe Fay told him that he would rip out the chair out of the wall there in a minute.

And at that time I think somebody had went and see a lawyer, some of the—a few members had went and see a lawyer, and he told them to stay away from lawyers,

[951] because in Newark or New York, he says, there was some trouble there that cost too much money. You wind up in court. You be in for a lot of trouble. You lower your treasury and then there will be assessment that will have to be put on the members, and story of this kind.

And I think at the time he denounced this Nick DiStefano—they used to call him "Revolution"— very good. Well, the son, the stepson, Frank Lentino, he got up at the time, you know, in defense of his father, and Joe Fay at the time, he says that he would guarantee that no harm would be done to this DiStefano.

MR. O'BRIEN: If Your Honor please, I move that the answer be stricken.

THE COURT: I don't see the relevancy of it, but I will let it stay for what it is worth.

By MR. FREEDMAN:

Q. What about Jasper White? Did he run the meetings at any time? A. Oh, yes. Yes. He was the assistant supervisor. Whenever Joe Fay wasn't there or Bill Carter, he would actually—

Q. And how did he run the meetings? A. Well, about in the same order, that you would have to go along with him or you would be benched from—

[952] Q. What do you mean by "benched"? A. Well, if you got up and spoke against the activity of the union, that he didn't think that it was—that it was fair by the membership, they would try to keep you out of work. If you was able to get your own job, all right, or otherwise you didn't work.

Q. Now, what about Bill Carter? Did he ever run the meetings? A. Yes. Yes. I remember one meeting that he was pretty well drunk at that meeting, too, and at the time I think was Eddie Piscatelli and Mike Massaro, they put a motion on the floor to discontinue Jasper White's pay, and at that time Bill Carter got up and he says that mo-

tion was out of order and if we didn't act right he was going to discontinue the meeting and there would be no more meeting.

Q. Now, who said that? A. Bil. Carter.

Q. Now, what job, what position did he hold in Local 542? A. I don't know any positions that he hold there.

Q. Did he hold any position in the International Union? A. I don't know that he hold any position in the International Union, either. He was an agent in 825, as far as I know.

[954] Q. Now, do you remember who the business agents were in Local 542? Did they have any business agents doing supervision? A. Yes; they did.

Q. Did they come around to the jobs? A. Well, not too often.

Q. Well, did you ever see them at all, around to the jobs? A. Yes. I saw them at times.

Q. Well, how did they get around, walk or drive? A. No. They had a car. They had a Cadillac.

Q. Whose car was it? A. Belonged to the local union, as far as I know.

Q. All the agents? How many were there? A. Well, at the time I joined the local I think was only two agents, and Jasper—but later was many more.

Q. About how many more? [955] A. Well, Eddie Piscatelli became an agent and a cousin of mine, Henry Acchione became an agent, and then they put Cadillac salesman Bill McCool as an agent, too. There was another fellow that I don't remember his name. He was a mechanic for the Cadillac Company, too, and he was put on as an agent.

Q. Were all the agents given Cadillac cars? A. Yes, sir.

Q. How about Jasper White? A. Jasper White had two.

Q. Now, were the men given any chance to participate in contract negotiations during supervision?

MR. O'BRIEN: Objected to.

THE COURT: What are you attempting to establish by that question?

MR. FREEDMAN: That the men were never consulted regarding the contracts which were negotiated either before or during negotiations.

THE COURT: Well, but that isn't the question you asked. There is an inference that as a matter of right they should have participated. Are you taking that position?

MR. FREEDMAN: Oh, yes, Your Honor. Absolutely.

THE COURT: All right. You may ask the ques-
[956] tion, then.

(The pending question was repeated by the reporter, as follows:

"Q. Now, were the men given any chance to participate in contract negotiations during supervision?")

THE WITNESS: No. I say the men wouldn't vote on any agreement. They just report to us, maybe, or say, "We going to go on a strike. We going for nickel raise." If we—or say 25-cent raise, and at the windup we got nickel or 7 cents. If we don't get it we go on a strike. Some report like that was made at times, not all the time, not on every agreement. Some agreement we didn't know anything about.

By MR. FREEDMAN:

Q. Were there different agreements covering different contracts? A. Yes. I work with different contractors and they told me that they had a special agreement.

MR. O'BRIEN: Objected to. I move that the answer be stricken, sir.

THE COURT: Read the question and answer back. I didn't get the answer.

(The last question and answer were repeated by the reporter.)

[957] THE COURT: I am going to deny your motion.

THE WITNESS: Well, I called—I would call Jasper White, and I told him about it, that according to the job that I am working on, it isn't so, the rates, it is different.

Well, he says, "You go along with this contractor, because he is friendly to us; he is good when we negotiate new agreement," or story of that kind.

By MR. FREEDMAN:

Q. Do you remember who those contractors were that you are talking about? A. Yes. I remember some of them.

Q. Tell us who they were, please. A. Well, the one time was even my own cousin, a contractor, at one—

Q. Meaning whom? Will you name him please. Name him, will you please? A. Acchione Contracting Company.

Q. Who else? A. I think James Morrissey was one.

Q. James Morrissey?

THE COURT: You think? Now, let us not go into that.

THE WITNESS: Yes, that is—

[958] THE COURT: Let us have facts.

THE WITNESS: Well, I work for this James Morrissey, and Jasper White took me off that job. At that time he didn't get along with Morrissey, but—

THE COURT: That is entirely different than having a special contract. Let us be a little careful about our testimony here in that regard.

MR. FREEDMAN: We are going to follow this up, sir. We are going to prove that there were special contracts. We are going to prove that through the issuance of the contracts.

THE COURT: I am saying this: This man makes one statement and another which is then completely the converse of it. He talks about a special contract

and then he says White doesn't get along with the crowd, a special contract with unfair favoritism.

By MR. FREEDMAN:

Q. Well, tell us about that, Mr. Acchione. A. Well, why, at one time I went work with Morrissey, and I work that three days, and Jasper White took me off that job. He said, "You too good of a man to work for this contractor."

Now, a year or two later I—the business agent told me that Jasper White told the business agent—

[959] MR. O'BRIEN: That is objected to, sir.

A. —"Leave Morrissey alone. Don't go patrolling his job. I take care of them jobs myself."

[960] Q. Now, did conditions change any after supervision was ended?

MR. O'BRIEN: Objected to.

[961] THE COURT: I am going to let it go. I am just trying to find out where the change in condition was, from what I have heard here in this case.

Go ahead.

THE WITNESS: Yes. In four years' time I say I saw big change.

By MR. FREEDMAN:

Q. What was the change? A. Well, the change was that I didn't hear no special agreement no more. On every job you go—of course, was still two different rate. We tried to make it one. It was still two different rate, and the highway was a rate and building and heavy construction was another rate; but we know about it. It was in the agreement and the agreement was in force, and every job the same.

Well, you run orderly meeting. I believe that every member in the organization could say that, that was a very, very conducted meeting.

Well, we got way better condition.

[964] Q. Now, what other conditions did you have in mind when you said conditions got better after supervision was ended? A. Well, we got more raise. We got the jobs manned better.

Q. What do you mean by— A. If you had five machine and the machine require oil, was five oilers there. And I don't remember now if it was on the local autonomy that we got oilers on all cranes. Previous to that we only had oilers in a shovel and a back hoe, but no oilers on a crane, and to my experience you needed—even today we don't have oiler in three-quarter yard machine. You need it on that machine as much as you need it on a big machine; but we don't have it.

Q. Now, Mr. Acchione, after supervision was ended did you become an officer in the union? A. I became a member of the Executive Board.

[965] Q. You became a member of the Executive Board. When were you made a member of the Executive Board? A. I think right after local autonomy.

Q. And did you attend all of the Executive Board meetings? A. Yes; I did.

Q. Did you also attend to all of the membership meetings? A. Yes; I did. I was also allotted as trustee in the dead fund of the local union.

Q. You mean the death benefit fund? A. Yes, of the local union. I still am.

Q. Are you still on the Executive Board? A. Yes, but no meeting now after—

[969] Q. Do you remember whether there were any negotiations undertaken shortly prior to May 1, 1952, with the independent contractors and with the association contractors? A. For 1952 agreement?

Q. That is right, from May 1, 1952, on. Do you remember [970] that there were negotiations? A. Yes.

Q. Do you have any knowledge of those negotiations? A. Well, only—

Q. Just answer yes or no for the moment. Do you have any knowledge of them? A. Yes.

Q. Do you know what I mean by the association contractors? A. Yes.

Q. That is three associations in Philadelphia. A. That is right.

Q. And all the rest were called the independent contractors. A. That is right.

Q. Will you tell us what you know, please, about the negotiations with the independents and with the association contractors? A. Well, only I know the report that we got in the meeting. They was meeting with the association, trying to negotiate a new agreement for 1952, but they wasn't getting anywhere. They didn't even want to talk about it. I got this from Mr. Underwood and from the agent that went into the negotiation.

Q. Do you know who was in the negotiating team? A. Well, Charlie Denoncour, I think he was in. He made a report a few times, and Jerry Leone, and I think Pete Pantaleo, [971] too.

Q. Where were these reports made? Where would you get them? A. In the meeting.

Q. What meeting? A. Meeting of Local 542.

Q. The Executive Board or general membership? A. Executive Board and general meeting too.

Q. You mean they were reported back to the Executive Board and the general membership? A. Yes, they reported whatever took place at the time they met with the contractors association.

Q. Did the Executive Board have anything to do, did they give consideration to the demands which were submitted to the contractors? A. Yes. I think the Executive Board played a big part in that. It was all discussed all together and at the conclusion voted on.

Q. Do you know who John McDonald was? A. Yes.

Q. Who was he? A. He was the third vice-president of the International.

Q. Was he in your area? A. Yes, he was.

[972] Q. What was he doing in your area? A. Well, he was the representative from the International. He participated in everything. To my estimation of John McDonald, he was very helpful to us. He was very good.

Q. Did he attend the Executive Board meetings? A. Yes, sir.

Q. Did he engage in the discussions? A. Yes, he did.

Q. Did he make suggestions concerning proposals? A. He made suggestions, he gave advice, right along.

Q. Do you remember whether an agreement was reached with the independent contractors? A. Yes.

Q. Was there an agreement reached with the associations before May 1, 1952? A. No.

Q. What happened? A. Well, we went on strike. We struck the association in 1952 because we had no agreement with them.

Q. Did you also strike the independents? A. No.

Q. As a result of that strike was there any unemployment that you knew about during the strike?

MR. O'BRIEN: Objected to.

[974] A. Well, you take the Morrisville job, mostly all crafts was involved on that job.

Q. Tell us what crafts were involved, will you, please? A. The electricians, the iron workers, the rod men, cement finishers, dock builders, operating engineers, steam fitters, mostly all of them.

Q. How about the carpenters? A. Carpenters.

Q. How about the laborers? A. Laborers, yes.

Q. All right, now, during this period of the strike did you have an opportunity to see whether or not there was any unemployment among these other trades on the jobs that the engineers generally worked on?

MR. O'BRIEN: Objected to.

THE COURT: I am going to let the witness answer the question if he can. If he has that broad knowledge, I certainly would like to hear it.

A. I have a personal knowledge that it was two carpenters and two steam fitters, that as soon as the strike had begun—they was working at the new building that was put up in the airport—Philadelphia Airport—they came to work with me. They rode with me. I was working at Morrisville at the time, and I talked with them.

[975] "Well," he says, "the only part we liked about it was that it was right across home."

They lived in South Philadelphia, but up here we worked more overtime. We were better off. There is room for a lot more in here. They say they had no problem on account of our strike.

Q. Incidentally, I think I forgot to ask you where you live. A. I live at 1753 South Dorrance Street, Philadelphia.

Q. That is in South Philadelphia? A. Yes.

* * * * * * * *

[977] Q. Did you attend the meeting in June at a hall on Spruce Street, a special meeting? A. Yes, I did.

[978] Q. Do you remember what happened at that meeting? A. Yes.

Q. First tell me, do you remember? A. Yes, I do.

Q. Do you remember who spoke at that meeting? A. Yes.

Q. All right, tell us what you remember. A. Well, I remember Mr. Underwood presided, and that the strike was going on very well. There was a rumored back-to-work movement—it was only a rumor—and at that meeting we had offers of the Maritime Trade—quite a few of them was in there, the leader of the men, Maritime Trade, that they pledged themselves to support us a hundred per cent.

Q. Did any of them speak from the platform? Did any of them address the membership? A. I don't remember for sure. It seems to me that one did, but I don't remember what they say or anything.

Q. Did you or anybody else speak at that meeting? A. Oh, yes, Mr. McDonald spoke.

Q. What did he have to say? A. Oh, he says that we was going along very well with the strike, and the international was behind us, behind the demand we made, a hundred per cent, and he also thanked the Maritime Trade for the pledge they made to support us on the strike.

[979] Q. Was there any action taken by the membership at that meeting. A. Yes, there was a vote. I think there was only one person, and he was a foreman for James Morrissey, that was opposed to the whole membership. The rest of them was all in favor. In fact, they got up and made motions that we have a good leader and we back him a hundred per cent, and the motion was a unanimous vote on it.

Q. Who was that leader you are refering to? A. Underwood and Mr. McDonald, too. He was an International representative there that spoke to the membership.

Q. Did they vote to continue with the strike? A. To continue with the strike.

Q. Do you know what happened after that? Following that meeting did you learn, as a member of the Executive Board, or did you receive any report as such, about any conferences between Mr. Underwood and Mr. Maloney? A. Yes. I think Mr. Underwood and Mr. McDonald both reported to the Executive Board, I remember one time, that they had a conference with Mr. Maloney. I think he said that Mr. Wharton was there and I believe Mr. Gramling. I don't remember for sure.

Q. Do you remember where that conference took place? A. In Washington.

[980] Q. Go ahead. A. And Mr. Underwood and Mr. McDonald reported that Mr. Maloney said that they had begun to put pressure on him about the trade being out of work, and Governor Fine had said something about it, but he felt that we was going along all right, that it wouldn't be too long that it will be settled.

"Go back and continue."

Q. Do you know whether there were any meetings

held after that which were attended by Mr. Carter? A. After when?

Q. After that conference in Washington.

THE COURT: I think you had better do a little leading here, Mr. Freedman, for purposes of clarity.

MR. FREEDMAN: I wanted to do that, sir. I think, Your Honor, it is essential here, or it is appropriate, I should say.

By MR. FREEDMAN:

Q. Mr. Acchione, do you remember that there were some meetings with the employers, that is, between the employers and the union negotiators, which were also attended by Mr. Carter? A. Yes.

Q. Do you know anything about those meetings. A. Yes, I do.

[981] Q. Did you attend any of those meetings? A. Well, we did attend.

Q. Did you attend any meetings at which Mr. Carter attended? A. That was right outside the meeting room. We were supposed to go—

Q. Will you tell us what you know, please. A. That morning the Executive Board came in, too, and we went and sat in a room where they were supposed to have a meeting with the contractors association.

Q. You mean the whole Executive Board? A. Yes.

Q. About how many men were there? A. I don't remember if all the Board was there. It was 12 or 15 men besides all the agents.

Q. How many agents were there? A. I would say it was four there anyhow besides Underwood.

Q. So how many would you say were there all together from the union? A. I would say it was close to 20.

Q. Close to 20? A. Yes.

Q. What happened? A. Well, Mr. McDonald come in too and he says, "I am not going to stay here with you fellows. I know Mr. Carter is [982] coming in, and I don't think your strike is going to wind up very good." and he walked out.

Q. Who said that, Mr. Acchione? A. Mr. McDonald.

Q. Go ahead. A. I think later they asked—I don't know if it was Mr. Halloran come in or something, and Carter too, and told Underwood—

I didn't see this. That's what Underwood come to tell us, that they objected that it was too many people there, and so we, all, all the Executive Board went out and sat on the outside. It was only the agent and Mr. Underwood and a member of the association.

Q. You didn't stay in the meeting that Mr. Underwood was in? A. No, we did not.

Q. Did you get a report afterward of what happened? A. Yes. I don't think that meeting lasted much at all, because the rest of the association contractors wasn't there, the committee. I think that broke up right away that morning.

Q. Did you attend any of the later meetings with the employers and with Mr. Carter and the union? A. No.

Q. You did not? [983] A. No.

Q. Do you remember getting a report, as a member of the Executive Board, from Mr. Underwood regarding those negotiations? A. Yes.

Q. Will you tell us what that report was. How many times did he report to you? A. In fact, we stayed right there, only we didn't go inside where they had the meeting.

Q. I mean the later meetings. A. Well, I want to say that we got the reports right away, because we was just outside the room, and whenever the meeting broke up, they told us just what happened.

* * * * * * * *

[986] Q. Mr. Acchione, were you present at the meetings which were held between the union representatives and the employer representatives and Carter? A. No.

Q. Were you in those meetings? A. No. I wasn't there. I was ouside the meeting.

Q. You were outside. Were you outside at all the meetings? A. Two that I remember.

[987] Q. Two meetings you remember? A. Yes.

Q. Did you get reports of what happened after the meetings? A. Yes.

Q. When I say, "you," was it you alone or were you with anybody else? A. Oh, with—with other Executive Board members.

Q. Other Executive Board members? A. Yes.

Q. About how many other Executive Board members were outside the rooms when Carter was in attendance at those meetings? A. Oh, I say six, seven or more.

Q. I see.

Now, after those meetings did Mr. Underwood report to those members of the Executive Board, including yourself, what happened? A. Yes.

Q. Now, do you remember Mr.—you were in court when Mr. Underwood was testifying here? A. Yes.

Q. Do you remember his testimony about what happened at those meetings? A. Yes.

[988] Q. Did the report which he made to you—was it the same as he— A. Exactly.

Q. —testified to on the stand? A. Exactly.

Q. Now, following those meetings between Mr. Carter and the two negotiating teams, did Mr. Underwood go to Chicago? A. Yes.

Q. Before he went to Chicago was there a meeting? Did you attend a meeting of the local Executive Board? A. Yes; I did.

Q. Tell us what happened in that meeting, will you please? A. Well, in that meeting we discussed about the strike, and we tried to get a plan more or less that we would agree when he would talk with the general president about four major demand over that, that if we would agree to arbitrate them.

Q. You had four major demands: and what were those four major demands? A. Well, it was the safety

code, pension plan, 25 cents retroactive pay for those members that—they had to work for 25 cents less on account of the injunction, and I think it was the parity of New Jersey wages.

Q. Now, did Mr. Underwood give you a report after he came [989] back from Chicago? A. Yes; he did.

Q. When I say "you," I mean you as a member of the Executive Board along with other members of the Executive Board. A. The whole Executive Board was present. He called a meeting.

Q. Now, did you hear Mr. Underwood testify from the stand about what happened in Chicago? A. Yes; I did.

Q. Did his testimony which he gave here in court agree with what he told the Board— A. Yes, sir.

Q. —after he returned from Chicago? A. Yes, sir.

Q. Now, after Mr. Underwood got back from Chicago, there was a meeting, another meeting between the employers and the union agents. Did you attend that? Do you know anything about that? A. No.

Q. Now, do you know anything about a telegram that Mr. Underwood sent to Mr. Maloney after that? A. Yes.

Q. Was that telegram discussed with the Board? A. Yes; it was.

[990] Q. When you were present? A. Yes.

MR. FREEDMAN: If Your Honor has that list there, could Your Honor call off the number of that exhibit, if I may enlist Your Honor's assistance?

THE COURT: Which one do you mean?

MR. FREEDMAN: Of that telegram that Mr. Underwood sent to Mr. Maloney. Oh, I have it here.

THE COURT: Underwood to Maloney, 42.

MR. FREEDMAN: I have it—42 and 43. Thank you, sir.

By MR. FREEDMAN:

Q. Mr. Acchione, I show you this telegram or a copy of a telegram marked P-42. Will you look at that and tell

us whether that is the telegram that Mr. Underwood was instructed to send to Mr. Maloney? A. That is right.

Q. Did you participate in that meeting? A. Yes.

Q. In the discussion? A. Yes.

Q. I now show you a telegram from Mr. Maloney to Mr. Underwood. Did you see that before? A. Yes, I did.

[991] Q. That is Exhibit No. 43? A. 43.

Q. Now, was this telegram of Mr. Maloney's presented to the membership at a meeting, at a regular meeting? A. The one from Mr. Maloney?

Q. Yes. A. Yes, sir.

Q. Before it was presented to the membership, was it presented to the Executive Board? A. Yes.

Q. Did you hold a meeting? A. It seemed to me we hold two Executive Board meeting, one—one because he had got a telephone call from Mr. Maloney that they accept the contract proposal, and that is when the telegram was sent to Mr. Maloney to—for him to send and write what proposal, just what he means, so we could present it to the membership.

Q. That was this first telegram that I showed you marked P-42, wasn't it? A. Yes.

Q. Now, you say you held another meeting of the Board after that? A. Yes, after we re—well, because was a membership meeting and we had an Executive Board meeting first, and [992] then the membership meeting.

Q. Well, what happened at that second membership Board meeting? Was that after you got the telegram from Mr. Maloney? A. That is right.

Q. Now, what happened at that meeting? A. Well, we discussed about the telegram. Mr. Underwood had explained to us just what he meant about what was in the telegram, and we reject that, because that was even less than what we already had with the independent contractors, the proposal that he sent.

Q. The Board rejected Mr. Maloney's request contained in this telegram? A. Yes.

Q. The telegram marked P-43?

(No response.)

Q. Now, did you attend a membership meeting that night? A. Yes; I did.

Q. What happened that night at the meeting? A. Well, Mr. Underwood present the telegram to the membership, he read it out, and then he explained what it meant, and it was vote on on the floor. I mean—

Q. Who else talked besides Mr. Underwood? A. Mr. McDonald and Mr. Wharton, too, spoke that night.

[993] Q. Now, do you remember what Mr. Underwood said? A. Well, Mr. Underwood, I remember saying that he couldn't—he couldn't recommend to the membership to accept that proposal.

Q. He could not recommend it to the membership? A. He said, "For my God-given right," something like that, Mr. Underwood said, "I sure wouldn't recommend that proposal," but the whole membership was concerned and refused vote on it to accept it.

Q. Before they voted on it did Mr. McDonald and Mr. Wharton talk? A. Yes; they did.

Q. Will you tell us what Mr. McDonald said, please, if you remember. A. Well, Mr. McDonald, he praised about the organization to carry a very successful strike, and Underwood was very good leader and he did everything to make the strike successful, but on this point here I think we should accept the general president's proposal, because I think it is for the best interests of the membership, and there was a turmoil over that for a while. The membership didn't like that at all.

Q. Now, what about Mr. Wharton? What did he say? A. Mr. Wharton also—I don't remember in words just [994] what he said, but he says that he wasn't prepared, that he had a sore throat, to make a lengthy speech. "I will be brief and I think we should—you should accept the general president proposal, because it is for the benefit of the membership."

Q. Now, did the membership vote on the general president's telegram? A. Yes.

Q. And what was that vote A. That vote was unanimous reject general president proposal.

Q. As outlined in that telegram? A. That is right.

Q. Now, following that do you recall a letter which Mr. McDonald sent to the contractors? Did that come to your attention in connection with your status as a member of the Board? A. If I may, on that same meeting was not a motion on the floor, and was—was vote on. They invited the general president to attend the meeting and explain why he took such an attitude against the membership.

Q. And did that motion carry? A. That motion carried, too.

Q. Did Mr. Maloney come down in response to that invita [995] tion? A. No, sir; he did not.

Q. Now, Mr. Acchione, do you of your own knowledge know anything about the letter that Mr. McDonald sent out to the contractors? A. Yes.

Q. Did you have anything to do with it? A. Yes; I did. I saw the letter.

Q. You saw the letter? A. Yes.

Q. Did you talk to Mr. McDonald about it? A. Many time I talk with Mr. McDonald.

Q. What did he say about it? A. He says that he thought that it was very—he had some—that is before I saw the letter—that he had a plan that he was very sure that we was going to get a settlement.

Q. Now, when did you learn that the general president had sent in his order terminating the strike?

THE COURT: 48.

THE WITNESS: I believe along the same day.

By MR. FREEDMAN:

Q. Before I get to that point, may I just show the witness Plaintiffs' Exhibit No. 46. Will you look at this

[996] paper marked P-46 and tell us whether you saw that before. A. Yes. I saw this letter before. I did see this letter before.

Q. Is that the letter you were talking about? A. Yes.

Q. Mr. McDonald's letter? A. Let me read just some more here. Yes.

Q. Now, Mr. Acchione, I show you the paper entitled, "General President's Instruction Terminating The Strike." It is marked P-48. Did you ever see that before? A. Yes; I did.

Q. When did this notice or this order first come to your attention? A. Well, the date I don't remember but it seemed to me I—it was the same day that we receive it.

Q. And was any action taken about it? A. Yes. We had an Executive Board meeting that night. I think I was called by Mr. Underwood on the telephone to attend special Executive—

Q. When was that meeting held? The telegram or this order is dated August 11, I believe. That is right, August 11, 1952. Now, did you hold an Executive Board meeting after that order was received? A. Yes.

[997] Q. Do you remember when? A. Well, it seems to me it was the same night we received the letter. We receive this letter in the daytime—and it seems that night we had an Executive Board meeting.

Q. And who attended that meeting? A. I think it was an Executive Board meeting. I don't remember for sure who was all there.

THE COURT: Isn't it the fact that they had it the next morning?

MR. FREEDMAN: Yes. I didn't want to lead him that much.

THE COURT: Tell him about it.

By MR. FREEDMAN:

Q. Did you hear Mr. Underwood's and Mr. Dawson's testimony that there was an Executive Board meeting held the following morning?

THE COURT: At eight o'clock.

MR. FREEDMAN: At eight o'clock in the morning.

A. The only thing I remember one time we had one Executive Board meeting one night and the next morning we had another one. I don't remember now if this was the time.

[998] THE COURT: Maybe there were two of them. Maybe he is right. Let him go ahead.

By MR. FREEDMAN:

Q. What happened? You tell us what you remember. A. It seems that we had an Executive Board meeting, and Mr. Underwood at the time read us the letter, the order of the general president.

Q. Which one are you talking about? A. Isn't this the order to put the men back to work in twenty-four hours?

Q. That is right. That is the one. When are you talking about? When was that meeting held and where? A. Well, we used to meet in Town Hall and in the Broadwood.

By THE COURT:

Q. Mr. Acchione, it has been testified to that on that night and for most of the night the men were telephoned to or gathered in Mr. Freedman's office and that you had no meeting that night either at your headquarters, Town Hall, or the Broadwood Hotel, and that the next morning at eight o'clock you had a meeting at the Broadwood Hotel where everybody but one or two were there. A. That's right.

[999] Q. Does that refresh your recollection? Is that the way it happened? A. Yes, it seems to me that at night—

I remember stopping in Mr. Freedman's office, too, but at that time there was a back-to-work movement. It wasn't an Executive Board meeting. It seems that we had an

Executive Board meeting, I don't remember if it was in Town Hall or the Broadwood. We discussed about the general president's order to go back to work in twenty-four hours.

Q. You think you had two meetings, one at night and one in the morning; is that it? A. It seems to me. I don't remember.

Q. You can only give your best recollection. A. I don't remember if it was this time that we had two meetings, one at night and one in the morning, or it was another time.

By MR. FREEDMAN:

Q. At this meeting of the board, do you remember what was taken up? A. Yes. We discussed about the order of the general president, and also Mr. Underwood had already spoke to you, spoke to our lawyer, about legal means to refrain [1000] Mr. Maloney from breaking our strike and force us to accept the contract proposed.

Q. Was I at that meeting? A. No, sir.

Q. Go ahead. A. All the members was in favor to do something about to prevent from breaking our strike and accept the contractor proposal. We voted on it and it was a unanimous vote.

Q. You said that Mr. Underwood told you that he had talked to the lawyer, to me. A. That's right.

Q. Did he have with him any papers? A. Yes, he had some notes.

Q. Did he read to you from any papers? A. Yes.

Q. Now, Mr. Acchione, I show you the complaint filed in the case of Local 542 v. Maloney, et al. It is marked 14071. Would you examine this complaint, please, and tell me whether or not the statements in this complaint are the same as what Mr. Underwood explained at that meeting? A. Yes. I still have one and I know. I read it.

Q. Read this one over, will you, please. Mr. Acchione, will you read this one over, and then I will ask you some [1001] questions. Read it to yourself.

* * * * * * *

Q. Mr. Acchione, is what you read in this complaint [1002] pretty much the same as what Mr. Underwood read at that meeting? A. Pretty much the same, yes.

Q. Now, was it discussed at the meeting? A. Yes, at great length.

Q. Were there any questions asked by the members of the board? A. Yes. It was questions asked among the members of the board, and the board themselves instructed Underwood to do anything we had a right under the International constitution to bargain for ourselves. My personal opinion that our general president and the contractors association—

MR. O'BRIEN: That is objected to, sir.

You said, "in my personal opinion" did you not?

THE WITNESS: Yes.

MR. O'BRIEN: That is objected to, sir.

THE COURT: I think at this point it is not responsive to the question, and I will sustain an objection to his personal opinion.

By MR. FREEDMAN:

Q. Now, Mr. Acchione, did the board authorize and instruct Mr. Underwood to bring that lawsuit? [1003] A. Yes.

Q. Did they understand what was in the complaint?

MR. O'BRIEN: Objected to.

THE COURT: You can ask him whether he did.

By MR. FREEDMAN:

Q. Did you understand what was read to you at that meeting. A. I did.

Q. Did the other members of the board ask questions about it? A. Yes.

Q. Did they say that they understood it? A. Yes.

Q. Did they all agree unanimously to have the lawsuit filed? A. Yes.

Q. That lawsuit that you read? A. Yes.

Q. Now, you know, do you not, that that complaint

was filed in court and that it came before Judge Grim? A. Yes.

Q. Did you attend the meeting in Judge Grim's Chambers? A. No, I did not.

Q. Were you present in court that day? [1004] A. Yes, I was.

Q. Where were you when the meeting was going on? A. I was sitting in the court here.

Q. Outside the chambers? In the courtroom? A. It was in the courtroom here for a little while and then went to the chamber, but I was outside.

Q. In the course of the meetings in chambers did Mr. Underwood and the other members who were participating in that meeting come out and speak to you and the other members of the board from time to time? A. From time to time, yes.

Q. Now, as a result of the meeting in Judge Grim's chambers, you know that a settlement was reached, do you not? A. Yes.

Q. That settlement was to submit the issues to arbitration. Do you recall that? A. That's right.

Q. Now, that was subject to the approval of the membership; is that correct? A. That's correct.

Q. Was that submitted to the membership? A. Yes, sir.

Q. When? How long after that meeting? [1005] A. After the meeting with Judge Grim?

Q. Yes, after the meetings and after the settlement was reached. A. I think it was the next night or the same night.

Q. Where was the meeting held, first of all? A. In Town Hall.

Q. Was there a big crowd there? A. Well, the place was full. In fact, I sat in the hallway myself. There was no seat to sit in.

Q. Who addressed that meeting? A. Mr. Underwood.

Q. What did he say? A. He says—

Q. Well, inasmuch as we already have a transcript of the meeting, I won't go into that. Did Mr. McDonald address the meeting too? A. Yes.

Q. After the men addressed the meeting, a vote was taken? A. A vote was taken.

Q. And how did they vote? A. They voted unanimous to accept Underwood's proposal, whatever Underwood recommended.

[1006] Q. That was to accept the judge's proposal? A. That's right, Judge Grim's proposal.

Q. Did the men go back to work the following morning? A. That's right.

Q. When did you find out that supervision was again imposed after that? A. It seems to me that I got a phone call on the job.

Q. The same day? A. The same day, and it was an Executive Board meeting the next morning and I attended.

Q. Where was that meeting held? A. In the Broadwood Hotel. I don't remember now if that was called by Underwood or was called by Hunter P. Wharton.

Q. Did you go into the union office that day? A. Yes, after the board meeting we went into the office.

Q. What did you see and what happened after you went into the office? A. Well, I saw Mr. Wharton, I saw Pete Weber. He is the business manager of Local 825 at this time. I think he was only business agent at the time.

Q. What? A. I think he was only business agent at that time.

Q. I see. [1007] A. I saw Jack Carter.

Q. Jack who? A. That is Bill Carter's son. He was there.

Q. Was Bill Carter there? A. I think Bill Carter was there too. I don't remember sure now if I saw him that day or not.

Q. Who else do you remember seeing? A. It was two or three more, two or three more agents from Jersey, and two or three men that I didn't know. I didn't know if they was agents or what they was.

Q. Were any of them carrying guns that you saw? A. One man, I saw that he had a gun.

Q. Which one? A. Well, I don't remember his name either. He was a pretty stout fellow, pretty big fellow, with a face he looked like if he was a fighter or something.

Q. Do you know where he was from? A. From Jersey.

Q. But you don't remember his name? A. No, I don't.

Q. Did you see the gun? A. I saw the gun. He was walking all around the room in the office, and then he went and pulled the shade on the window over there, and that's when his coat opened and I [1008] saw the gun.

Q. Will you tell the judge where you saw the gun, please. A. I saw the gun right here (indicating).

Q. In a shoulder holster on one side? A. In a shoulder holster.

Q. What happened in the office then? Why were you called to the office? A. Well, we went to the office right after the Executive Board meeting. I stood over there for a while and then I went away. I think the business agent was asking some questions to Mr. Hunter P. Wharton, who we have to call in case is something wrong. We call you or we call Mr. Underwood? and Mr. Wharton says, "No, you call me." I think he says, "If I am not here, Mr. Underwood, you could talk to him, but don't make any decision. I will make the decision."

Q. Did you attend the meetings after supervision was invoked? A. After supervision was invoked?

Q. Yes, again. Did you attend meetings of the local after that? A. Yes, but it was pretty long after that. I don't remember the actual date. It was a meeting. They supposed to report to us the result of the arbitration. That was [1009] sometime after supervision was invoked.

Q. Now, did they have any meeting of the membership right after supervision was invoked? A. I don't remember.

Q. When did they start meetings, if any, after supervision was invoked again? A. Well, this was the first meeting, I don't remember the date, and then we had another meeting after that. That is when Tad McCarthy got beat up on this meeting, and this meeting was adjourned, and there was no more meeting after that a couple of years.

Q. Did you see that beating? A. Well, I saw him after he come back in the hall full of blood and all. I didn't see him when he got beat up.

[1010] Q. And then after that there were no more meetings for how long? A. 18 months or 2 years.

Q. And when did the meetings start up again? Can you place them, as closely as you could remember? A. I don't know if it was in—it was in 1956, I think, sometime.

Q. All right.

You say about a year and a half or two years after supervision was invoked. All right.

Now, how frequently or how often did they hold meetings after they started them up again? A. Practically every month. They skip a few meetings.

Q. Did you attend those meetings? A. Yes; I did.

Q. Now, how were those meetings conducted? A. Worse than the ones we was under supervision before.

Q. Well, now, tell us what you mean by that. A. You couldn't vote on anything. Your motion—you couldn't—you couldn't move any kind of a motion. It wouldn't be entertained. Most of the time you couldn't even get the floor to ask a question. If you did ask a question, the next meeting in the minutes the question would be opposite from what you ask, or either they would [1011] say, "Brother Acchione asked a question. It was answered by the chairman." Nobody know what it would be about. And I always objected to the minutes, because was incorrect, and the answer I got, "Well, we will put it the other way." Now. I don't know if the meeting—if the minutes was changed or not.

Q. Now, was there any interference with those who wanted to ask questions by anybody at these meetings? A. Oh, yes, always been few men standing in the side of the room, standing up. They wouldn't even take a seat and would holler to shut up, or, "You a scab," or, "Why don't you keep quiet? Underwood's stooge." And remark of—

Q. Was it any special group of men or don't you remember? A. Oh, it was mostly same group all the time.

Q. About how many are there? A. Oh, I think there is a dozen of them, probably more.

Q. Always the same? A. Practically always the same.

Q. Will you name them, please? A. Well, I can name some of them.

Q. Name as many as you can. A. Well, Frank Lentino was one. Joe Altimoro. Frank Powell. Tony Zipoli. Well, there was way more than that, and I know them pretty well, too, by a name. It seems that [1012] I can't name them all.

Q. Now, what did these fellows do?

MR. O'BRIEN: When?

MR. FREEDMAN: At the meetings.

THE WITNESS: Well, if somebody was talking—Frank Lentino was one that he could get up and talk any time he want. If he had the floor, he could get up and the chairman would allow him to talk. I remained standing over there and he could talk. Well, other guys, "Why don't you sit down? Why don't you shut up?" Well, I wasn't told this many time myself, but other members, plenty time. They get up and try to talk, and they—

By MR. FREEDMAN:

Q. Now, did they ever offer any violence to anyone? Do you know what I mean by that? A. Well, yes. I think was different time was threat made, "If you don't shut up, I will see you outside," or remark of that type, but was violent—violence in the meeting quite a few times.

Q. Do you remember seeing any incidents, any assaults or anything of that nature? A. Well, McCarthy—I was sitting pretty near in the front row, in the front, the official table where they was speaking, and McCarthy was behind me and Jerry Leone was [1013] behind me. Jerry Leone was speaking at the time, and I think that somebody was hollering to Jerry why didn't he sit down, why didn't he shut up, and McCarthy, he says, "Why don't you let Jerry speak? He has got the floor. The question he is asking pertaining to the interests of the membership. We want to listen to it."

Well, I don't know what Frank Lentino told McCarthy, but I turned around and they was arguing to each other, look like that they was going to run into each other and start to fight, but didn't happen, no fight.

At that time the meeting broke up. They adjourned the meeting. Well, I was still sitting over there with many other—with many other. All at one time McCarthy said, "That is what the International do to the members, that they ask question for their right."

And I turned around and I saw McCarthy full blood like if he was cut to a crush or something, blood all over. That is the only time that he was beat up. And I remember Wharton, he was point to Wharton, "You the one did this, but I remember every man that did it to me. I wouldn't forget it."

And Wharton told me, "I don't have anything to do with your private affairs," or something like that.

Q. Was any action taken by Mr. Wharton or by any of the [1014] other supervisors in connection with that incident? A. No, sir.

Q. Whenever these fellows that you mentioned before who heckled or who interfered with the speakers, or those who wanted to question, does the Chair take any steps to prevent them or to quiet them? A. No, sir.

Q. Do you remember seeing any other incidents of violence? A. Yes. I saw one. This fellow from Delaware

got beat up, Kay. Oh, I don't remember his first name now.

Q. Whitey Kay, you mean? A. Whitey Kay; that is right. That was him.

Q. What did you see of that incident? A. Well, it was—Bill Hogan had the floor, and one of those fellows that was standing in the aisle all the time tell me why didn't he sit down, and this Whitey Kay got up and he says, "Let him speak. We want to hear that report. We a member here. We have a right to find out what happened to the welfare fund money."

And, well, Johnny Wolgast to Whitey Kay say, "Why don't you shut up?"

Q. Who, Johnny Wolgast? A. Johnny Wolgast.

Q. Is that his real name? [1015] A. No. His real name is, I think, Johnny Cristaldo. He was a former fighter, former boxer.

Q. Is he one of the fellows who was around on the side? A. Yes. He generally stay on the side, too; yes.

Q. Go ahead. Tell us what happened. A. Well, I think what he answer him, "Well, you make me sit down." Well, and they start pushing each other. They start fighting and the fight was stopped. They—so they—they continued the meeting. As soon as the meeting was adjourned I hear chair rumbling, everything. I saw Johnny Wolgast on top of him, fighting again. I don't know where he come from, and the fight went on for a good while till a gang got around, you know, and then it was stopped.

Q. Did anybody else get into that? A. Well, it was a lot—lot of other men, some of those men that always stand around, they all got around there, you know.

Q. Did the supervisor do anything about it? A. No, sir.

Q. Or the assistant supervisor? Who was in charge of the meeting on that occasion? A. Well, I think there was brought there that night Mr. Wharton and Mr. Lavery, too.

Q. Now, at these meetings is the membership kept

informed [1016] about the contracts from time to time?. A. I didn't get that.

Q. At these meetings of the membership— A. Yes.

Q. —is the membership kept informed about the contracts and the contract negotiations? A. No.

Q. Are any questions— A. No. I think only one time. I think this was in 1953 they report to us, the building trade, other craft, that they had an agreement with the contractor association and they had guaranteed the operating engineers that whatever the other craft would got, we would have got it too, but when it come to—to vote on, I don't think we was allowed to vote on.

Q. Now, have you been kept informed regarding the contracts since that time? A. No. I think we ask a question lot of time but we didn't get the clear answer. I know that, if we understood, that on different jobs they had lost 40 hours guarantee. Well, I think at the time that they had that. They said that they had given relaxed condition. That is all.

Well, we tried to get an explanation, what "relaxed condition" would be, so you would know how to work [1017] on the job. Well, there was no explanation—that it was relaxed condition. That is all.

If you go on a job, you work on a job, if you try to run the job according to the agreement that we had before, well, maybe they would call you an agitator, well, because the agreement wasn't that way; it was a relaxed condition and all, and if you—if you, just like me, I am a crane operator; I am running crane, and I have an oiler—that is the requirement—and something else goes wrong on the job, I mind my own business.

Well, probably some of the stooge in the meeting say, "Oh, he is a scab," or he is this or he is something else. You actually don't know how to do the right thing, because you don't know what the right thing was. They give you an agreement.

Well, in the agreement that I saw, that didn't have

no 2, 4 and 8, but still we had contractors that was working that way, and they admit, the officials themselves admit that it was working that way. They was given the authority without—

Q. What is this 2, 4, and 8 that you refer to? A. Well, we had 40 hours guarantee. This 2, 4, and 8, if you —if you report on a job, you get two hours. If you work half day, you get four hours. If you work a whole [1018] day, you get eight hours.

Q. Whereas before you had a 40-hour guarantee? A. That is right. No. We didn't have—we didn't have any agreement to look to. So if a contractor wanted you to work that way, he says, "That is your agreement, and this type of work; that is the way you got to work." We didn't have an agreement to look to that.

Then was another agreement, that I have one now in my pocket, that we didn't even know anything about this agreement, but we were—it was a rumor. We ask questions. They deny. Never was one sent to the membership. This was sent by the local autonomy group, was gotten by a contractor somehow, and we reprint the rest, and a lot of the members have them now.

Well, since we have, they agreed that they have an agreement of this kind, but the membership don't know anything about it. In fact, when we hear the rumor was an agreement of this type, they deny it. They say it wasn't true.

Q. Was that agreement any different than the others that you had? A. Were different.

Q. In what respect? A. Oh, cuts the wage, no condition whatsoever, either—

[1019] MR. O'BRIEN: That is objected to.

THE COURT: I don't want you to read that whole answer. Read just the last question and answer.

(The last question and answer were repeated by the reporter.)

THE COURT: I will let him go ahead. Overruled.

MR. O'BRIEN: If Your Honor please, I don't know if I understood the witness correctly or not, but I think he said he had an agreement in his hand. Is that so, sir?

THE COURT: He said he had something in his pocket. He didn't say he had that in his hand.

MR. O'BRIEN: Well, I see the witness holding something. That is why—

THE WITNESS: Yes. That is an agreement that is supposed to exist now. They agreed that it is.

THE COURT: Well, do you want to look at it?

MR. O'BRIEN: I would like to; yes, sir.

THE COURT: All right. Go up and look at it.

MR. FREEDMAN: Will you mark this Plaintiffs' Exhibit No. 69.

(Agreement dated April 16, 1956, was marked Exhibit P-69 for identification.)

[1020] MR. FREEDMAN: P-69 is a booklet entitled, "Agreement By And Between The Contractors Association Of Philadelphia And Eastern Pennsylvania And The Carpenters' Joint Council Of Eastern Pennsylvania, Operating Engineers' Local Union 542, The Following Teamsters' Locals," and here they enumerate a whole group of other unions.

Would Your Honor like to see it?

THE COURT: No.

By MR. FREEDMAN:

Q. Now, will you go ahead with your answer, Mr. Acchione, please? A. I didn't hear that.

Q. Will you go ahead with your answer, please? You were telling us wherein this contract that you have in your hand is different than the other that was in existence at the time supervision was invoked. A. Yes. When I last work, I didn't work under this agreement at all. I am—I was still getting the rate, the prevailing rate, getting 40 hours' guarantee.

Well, the man I am working for, he is very honest man. He—I work for him prior of union, before I joined the union, before he had signed any contract with the union. He was always fair.

THE COURT: What bearing has this?

[1021] By MR. FREEDMAN:

Q. Let me ask you this: This agreement—may I have it please? It belongs in evidence now, Mr. Acchione. A. All right. you may have it.

Q. This agreement that is now marked P-69, was this ever taken up at a membership meeting? A. Yes.

Q. Was it first distributed by the supervisor? Was it ever distributed by the supervisor? A. No. No, sir. never.

Q. How did this agreement come to be distributed? A. By the local autonomy group.

Q. You mean the people who are seeking local autonomy here? A. That is right.

THE COURT: What is the date of that contract?

MR. FREEDMAN: April 16, 1956. The date is on page 6 of the agreement, sir, in case that should ever become relevant.

By MR. FREEDMAN:

Q. Will you tell us, Mr. Acchione, how was that agreement obtained, if you know?

THE COURT: You mean the copy or the agreement?

[1022] MR. FREEDMAN: Well, that, the copy of the agreement, the copy of the agreement itself in which this was made.

THE COURT: I still don't understand the question.

MR. FREEDMAN: Well, all right, then. I will rephrase it.

By MR. FREEDMAN:

Q. Did your group who seek local autonomy obtain a copy of the present agreement? A. That is right.

Q. How did you get it? A. Through a contractor, as far as I know.

Q. And then you mean you had it printed, your committee had it printed? A. Yes.

Q. And distributed? A. Right.

Q. Then was it brought to the attention of the supervisor? A. Yes.

Q. Were you there when it was done? A. No. I was sick in the hospital at the time, but before we obtained copy of this agreement, was brought to the attention to the official in the meeting, and they deny, say that |1023| it wasn't true.

Q. Do they deny it now or do they admit it now?

MR. O'BRIEN: Objected to.

THE WITNESS: I wasn't on this meeting when—

MR. FREEDMAN: Wait just a minute.

THE COURT: The difficulty, I think, is in the ability to speak English of this witness. He is making some statements that are contradictory within a few words of his statements. He is talking about conclusions which he completely destroys in the next phrase. If you intend to have the Court take as gospel some of the things that he is saying, you will have to prove it by someone else. I can't take his statement when he makes statements as if he were there and saw things and then it turns out he isn't even there at the time these things happen, and it is completely hearsay, so I would like you to be as specific with him as you can, Mr. Freedman—

MR. FREEDMAN: I will try to.

THE COURT: —because a lot of this evidence is completely unsatisfactory.

MR. O'BRIEN: Excuse me. I might say at this stage of the record, sir, that with due respect to the witness that I have been unable to get more than a third of his testimony for the reason that I cannot really [1024] understand him, and, of course, I might be prejudicing my case.

MR. FREEDMAN: I can understand everything that he is saying, sir. I have no difficulty about it.

THE COURT: Well, maybe you have had the advantage of hearing him before, Mr. Freedman, which I haven't. There is a lot of his testimony which I try to get the sense of rather than the complete import, if I had not interrupted him, but I just haven't been able to follow him completely here. But I get more than a third. I can say that.

By MR. FREEDMAN:

Q. Mr. Acchione, were you present at any meetings when this contract was brought up—I mean, when there was any question asked about the existing contract?

Let me put it another way: Were you present at any meetings before you got sick? You had been working for three months; is that right? A. That is right.

Q. When is the last time you were to a meeting? A. Oh, it was—I went to the hospital October 6. We had a meeting every Tuesday of each month, the first Tuesday of each month.

Q. The first Tuesday of the month? [1025] A. Yes.

Q. Now, do you remember when the question of the contract came up at any meeting? A. Yes.

Q. Which meeting was it? A. Well, we discussed about the other agreement, that this 2, 4, and 8 wasn't in the agreement and still contractor was working on it. Then we hear a rumor about this agreement, and we wanted to know if it was true. They say that it wasn't true. It was a lie.

[1026] Q. Now, when was that asked at the meeting? Was that asked at the meeting or was it asked of

somebody in the office? A. It was asked at a meeting, too. Two men went to the office, I know that, but they denied it. I don't think they denied to the two that went in the office. That is what they told me.

Q. Just don't tell us what these two men told you. What I am trying to find out now, was this question raised at a meeting at which you were present? A. Yes.

Q. About when was that? A. I think it was just before I went to the hospital, the meeting of September or October.

Q. Who was in the Chair at that time? A. The assistant supervisor, Mr. Lavery.

Q. Mr. Lavery? A. Yes.

Q. Was Mr. Wharton there? A. I don't recall if he was there at the time or not.

Q. Was there any question at that meeting asked about the contract? A. Yes.

Q. What was the question? [1027] A. The question, if it was true about this agreement, an agreement existed between the contractors association and the union.

Q. Which agreement did they refer to, when you say "this agreement"? A. That is this agreement (indicating).

Q. That is marked P-69? A. Yes.

Q. And what was the answer given? A. They said that it wasn't true.

* * * * * * * * *

[1036] Q. Mr. Acchione did you attend the meeting in Washington, the hearing on supervision? A. Yes, I did.

Q. On August 26, 1952, I believe it was, wasn't it? A. Yes.

Q. You went down there with the delegation from Philadelphia? A. That's right.

Q. Who all attended that meeting, do you remember? A. Yes, I think I remember. It was Underwood, myself, Homer Dawson, Hank Lavery, Pete Pantaleo, Jerry Leone, Mike Concordia, Brightbill, Al Smith.

Q. Who presided over the meeting for the International? A. Mr. Carter.

Q. Is that William Carter? A. William Carter opened the meeting.

Q. Who else was there for the International? A. Mr. Thomas, the general counsel.

Q. Was there anybody else there besides your group and those two gentlemen? A. No, sir.

[1037] Q. Tell us what happened at that meeting, will you, please? A. Well, Mr. Carter opened the meeting. He told us that he was appointed by the general president as chairman of that meeting, and then Mr. Thomas, the general counsel, took over. He started questioning Mr. Underwood. He said, "Mr. Underwood, did you hire pickets from the Maritime Trade Department?"

Mr. Underwood said, "Well, they volunteered, came to support our strike."

He says, "Did you pay them?

"No, we didn't. We just paid their expenses."

"How much money did you pay?"

"Well, I don't have the records here with me."

"Would you say you gave them over a thousand dollars?"

At that point Mr. Underwood, he says, "I would like to have a lawyer here with me."

He says, "Well, we don't allow a lawyer unless he is a member of the organization."

"Well, I would like to have a recorder to record all the statements that's made here."

"Well, you are not allowed to have that either."

"Will you answer my question. Did you pay over a thousand dollars?"

He says, "It was over a thousand dollars, yes."

[1038] "Would you say it was over $2000?"

Well, Mr. Underwood, he says, "I refuse to answer any more questions unless you have a recorder in here to take down all the minutes."

Well, he insisted again, "Would you say it was over $2000?"

Well, Underwood repeated what he said before. He refused to answer any more questions unless there was a recorder to record the minutes.

Well, then, he started questioning. He says, "Anybody else got anything to say?"

Well, each member over there says something, very little, and the meeting was short, because most of them took the same stand that they want a stenographic record made.

Q. Mr. Acchione, did Mr. Thomas or Mr. Carter read off to the group any charges against the local? A. No, sir.

Q. Did they tell you why the local was put under supervision? A. No, sir.

Q. Did they tell you what it was that you had to answer? A. No, sir.

Q. How long did that meeting last? [1039] A. I don't think it was a half hour. I think it was less than a half hour.

Q. Did you attend the meeting in New York, the hearing for Mr. Underwood? A. Yes, I did.

Q. Do you remember what date that was in September, 1952? A. I think it was September 17.

Q. It was the 19th, wasn't it? A. September 17 or 19, close to that date anyhow.

Q. Were you there? A. Yes, I was.

Q. Where was it held? A. Commodore Hotel.

Q. In New York? A. In New York.

Q. On the day of this hearing did you see Mr. Halloran in the hotel? A. No, I didn't. I was told—

MR. O'BRIEN: I object.

MR. FREEDMAN: You can't tell us that.

THE WITNESS: I didn't.

By MR. FREEDMAN:

Q. Did you go into the hearing? A. Yes, I did.

[1040] Q. Will you tell us what you know about that hearing from beginning to end, please? A. Well, they opened the hearing. Mr. Maloney got up from the chair and give Joseph Delaney the chair to preside in the meeting, and he just said that this was going to be the hearing for Roy J. Underwood, business manager of Local 542, and then Mr. Thomas—

Q. Who was there? A. Well, Mr. Maloney was there; the seven vice-presidents was all present.

Q. Did that include Mr. McDonald? A. That included Mr. McDonald. Mr. Wharton was there. Mr. Carter from New Jersey was there. His son Jack Carter was there also. Peter Weber, who is now the business manager of Local 825, he was there, and a couple more of the business agents from 825 was there.

Q. All right, now, you tell us what you saw and what you heard. A. Well, Mr. Thomas started to read some paper that he had in his hands. He started to read about Carter, Bill Carter, had filed against Roy Underwood. He read about violence had been committed in Local 542 in a meeting of Local 542—the bill of complaint that was filed against the International office.

[1041] Well, he read many more things, and he told the gentlemen on the Executive Board that all those things that Underwood had done was in violation of the Constitution, and he had done a lot of wrong, the General Executive Board would have to find him guilty of specific provisions of the Constitution that he had violated.

Well, he says a lot more things, but that is all I could remember.

Q. How long did he talk? A. Oh, he talked pretty long. I would say 45 minutes or more.

Q. How many minutes would you say? A. 45 minutes.

Q. What happened after that? A. Well, after that he asked Underwood if he had anything to say.

Well, Underwood read the appeal denying all state-

ments that Mr. Thomas had read. It was pretty lengthy. I can't remember everything, but everything that he says I agree with him was true.

Q. You are saying you agree with everything that Mr. Underwood said? A. That's right.

Q. Are you saying that he read the answer to the charges? [1042] Is that what it was? A. The answer to the charges.

Q. Did he read it all the way through? A. Yes, he did.

Q. Were there any questions asked by the Executive Board, that is, those who were sitting as judges at that time? A. No questions.

Q. Did they ask any questions of Mr. Thomas? A. No, sir.

I do want to say that when Mr. Thomas was reading this charge against Underwood, Underwood got up and said, "I do have a lot of respect for Mr. Thomas, for his professional education—he is a lawyer—and I would want to request if I could have a lawyer here on my defense," and Mr. Delaney, the chairman, he says that that would not be allowed in the organization, it was never practiced.

Q. Mr. Delaney said that? A. Mr. Delaney said that.

Q. He was the chairman of the meeting? A. He was the chairman of the meeting. And Mr. Underwood also asked if he could have a stenographic record. That was also denied by Mr. Delaney.

Q. Are you saying that this request for a lawyer and for a reporter to report the proceedings stenographically were both [1043] denied? A. Was both denied.

Q. After Mr. Underwood got through reading, what happened after that? A. Mr. Delaney asked if anybody else had anything to say.

Well, I don't remember if I got up first or somebody else got up first, but, anyhow, I said that I know Mr. Underwood for a good many years, we worked together, he was an honest man, he was a good worker, he done a good job

when he became an officer of our organization, he had respect for every member and also for the general office; and I denied the statement that Mr. Thomas said that it was violence in our meetings. I stated that it was violence in our meetings during supervision before.

Mr. Delaney said to me, "That was under Jasper White."

"Well, it was under supervision just the same. I wish the General Executive Board would give every consideration for Mr. Underwood."

Q. By the way, did Mr. Thomas ever attend any meeting of the local, Local 542? A. It seems to me that I saw him one time, but I can't be sure about that.

Q. Go ahead. [1044] A. I can't be sure that he did.

Q. Who spoke after you? What happened after that? A. Jerry Leone spoke. Gus Toppi spoke. Mike Concordia spoke.

Q. Did they all speak on behalf of or against Mr. Underwood? A. All on behalf of Mr. Underwood.

Q. Do you remember what they said, substantially? A. Well, they all praised Mr. Underwood for the work he did, and they all said also, including me, that John McDonald, the general vice-president, he was there with us all the time and he could witness that what we said was true.

Q. And you said that in the presence of Mr. McDonald? A. Yes, I did.

Q. Did he deny it? A. No, sir.

Q. Were there any questions asked of any of the members as they spoke or after they spoke? A. No, sir.

Q. What happened after that? A. Well, I think Mr. Delaney asked if we had any more to add, if we had any more to say. I think Mr. Underwood repeated again that he didn't think that it was fair that he wasn't allowed counsel and a stenographic record, and Mr. Carter got up and said something, but I can't recall. He says [1045] something that he did the job that he was supposed to do, something to that effect.

Q. How long did he speak? A. Not very long.

Q. How long? A. Oh, not over three minutes.

Q. Mr. Carter? A. Mr. Carter, and then Mr. Maloney said something. He says that he was called a strike breaker but he wasn't a strike breaker, that he tried to get them together.

"I could fix it so they would have got 40 cents an hour increase, get the two welfare funds together, but they wouldn't listen to me, and they started fighting again. They listened to the judge, to send the men back to work. We will see what they are going to get now."

That is all I can remember.

Q. What judge was he talking about? A. He was talking about Judge Grim, I presume.

Q. All right, what happened after that? A. Well, as I was walking out, we was all walking out, I was talking with Jack Carter That is Bill Carter's son. I said, "Well, it wasn't much to the hearing at all. I guess everything is going to be all right."

"Oh, no," he says, "Underwood, what he did was [1046] in the papers, you know. The general president is the general president of 250,000 membership. He has got to be penalized."

Q. Where did that take place? A. As we was walking out of the hearing hall.

THE COURT: Read that previous answer back in its entirety.

(The last two questions and answers were read by the reporter.)

MR. O'BRIEN: I move that the two answers be stricken, sir.

THE COURT: No, I will let it stay. Go ahead.

By MR. FREEDMAN:

Q. Did you continue to be a member of the Executive Board, Mr. Acchione? A. Yes, I did.

Q. Have there been any meetings held of that Execu-

tive Board? A. I think it was three meetings, two or three meetings.

Q. Did you attend all those meetings? A. Yes, I did.

Q. When were they held? A. Well, one meeting was held I think the second day after supervision was invoked, on Broadwood Hotel.

[1047] Q. That would be in September of 1952—I mean, in August of 1952? A. That is right. At that meeting Bill Carter was there, Pete Weber from Local 825, all the members of the board, was also George Gaul appeared on that meeting, that he wasn't a member of the board, and—

Q. He is one of the business agents now? A. What?

Q. George is one of the present business agents? A. That is right.

Q. Go ahead. A. I believe all the business agent—

Q. What happened at that meeting? A. Well, Mr. Wharton presided on that meeting. He read the order of supervision, that he was to supervise, and says, "I want to tell you now that I don't want part of cooperation, not half cooperation. I want a cooperation all the way." He said, "Supervision could be very mild, it could be intermediate, or it could be a full supervision. It could be pretty rough. I want that to be understood."

And he also at that time give us a notice to hearing, or he read it out, and he says, "The board, [1048] they will receive notice of the hearing that was going to be held in Washington, and whoever would be interested, you know, could appear to this hearing."

Well, at that time I asked Mr. Wharton, "Are you going to hold special meeting to tell the membership about this hearing?"

He says, "No. There ain't going to be no meeting."

"Well, how are those members going to know? They might be a lot of them they be—they have an interest."

"Well," he says, "There is no facility for the whole membership to go down there, and they won't go down."

"But what you read here in the notice, whoever interested, might be a lot of them to be interested, but if you ain't going to notify them, you ain't going to notify meeting, how are they going to know?"

"Well, I am telling you right now. There ain't going to be no meeting."

Q. Was Mr. Underwood present at the meeting? A. Mr. Underwood was present. All the agent was present. The members of the Executive Board was present. [1049] And, as I say, George Gaul was there, too, even though he wasn't—

Q. All right. When were these other meetings of the board held? A. Another meeting was held in the Broadwood also to go over to discuss about the demand that was supposed to be submitted for arbitration.

Q. When was that? A. Well, the exact date, I can't remember that, either.

Q. Was that within about the same time or shortly after the first meeting? A. Yes. It seemed that it wasn't too long after.

Q. Within a month or so? A. Within a month or so.

Well, we went over the demand, the Executive Board, and Mr. Wharton—well, mostly every demand that we had in there, he says he didn't find anything wrong with those demands. In fact, he told us about a few of the locals, that they have way better than those demands in the agreement now.

Q. Now, when you say, "demands," are you talking about the demands which the local had been making before during the strike? [1050] A. That is right.

Q. Now, were they the demands which were agreed to be submitted to arbitration in the sessions before Judge Grim? A. That is right.

Q. So that they were all listed in that proposal which was signed in Judge Grim's chambers? A. That is right. Well, we went over those demands, and he—he seemed to agree with all of them. Well, the safety code, he didn't say

much about that. He didn't disagree; but he didn't say much about that. But like the master mechanic and five-piece equipment, compressor to take care of—three compressor, he says, "We have agreement here in the local. It is only allow—only allow to take care of one compressor." The parity of New Jersey, he didn't say too much about that, either. He didn't disagree, but when I pointed out to him, it seemed that he hadn't much to say about that.

Well, I told him, "Mr. Wharton, you see, now you agree almost everything that we was fighting for, but still the contractor here said that they couldn't bargain with us; we didn't want to get along. It was so much talk about that we was so bad."

[1051] "Well," he says, "it is the way you go about, how you go about."

And I reminded that in a meeting sometime later when—when we was losing condition time. He didn't deny, but he put it some other way, that he said that it mean—mean same thing.

Q. Now, when was this next meeting held? A. The next meeting was held on Broadwood also, when the decision of the Executive Board, the General Executive Board against Underwood—

Q. Pardon me. I didn't get that. Will you repeat it. A. This meeting was held, and he read out that Underwood was found guilty of the decision of the General Executive Board. He read out that he was found guilty. He was suspended for six years, fined $3,500, all the decision against Underwood.

Q. That would be in September of 1952—or, no. When was the decision rendered? Let me check that. The hearing was in September of 1952. The decision was rendered—A. It wasn't very long after we come back from New York.

Q. It is September 24, 1954, the date of the letter enclosing the decision. The decision is dated September [1052] 24, 1952. How long after that decision was handed down did you hold this meeting? A. It was only a few days.

Q. Now, do you remember what happened at that meeting? A. On that meeting also—well, I tried to make a motion on that meeting that Underwood would be kept on the payroll, because he was only a working man and he would need money to provide defense for himself. I think that it was an unjust decision against Mr. Underwood.

Well, he says that motion was out of order and he couldn't entertain that motion if he wanted to.

Q. Now, have you held any meetings since that time? A. Executive Board meeting?

Q. Yes. A. I think one more.

Q. When was that? A. I think was month or so after that, about a month after that meeting.

Q. Do you recall what happened at that meeting? You say a month after this last meeting you just mentioned? A. About.

Q. That would still be in 1952? A. Still be in 1952.

Q. Do you remember what happened at that meeting? [1053] A. Well, I think that they voting on couple of men, couple members to be transferred from B book to 542, or, from A book to 542.

Q. All right. Now, following that meeting have there been any other meetings of the Executive Board? A. That was the last.

Q. Since 1952 you haven't had any meetings of the Executive Board? A. No, sir.

Q. You are still a member of the Executive Board? A. Yes, sir.

Q. Now, were you appointed? Did you go as a delegate to the last convention which was held in Chicago recently? A. Yes. I was.

Q. When was that convention held? A. April 9, 1956.

Q. April of 1956. Now, how are the delegates—are they appointed or are they elected generally? A. Well, under local autonomy we elect the delegate but under supervision I was appointed.

Q. You were appointed? A. So as the rest of them. Fifteen delegates went from Philadelphia.

[1054] Q. Fifteen; and they were all appointed and not elected by the membership? A. That is right.

Q. Those were the delegates who would participate in the nominations and the business of the International Union and representing the local union; is that correct? Those were the delegates who would represent the local union and participate in the International Union affairs? A. That is right.

Q. Now, you were appointed, you say. By whom were you appointed? A. Well the assistant supervisor called me on the telephone and he told me.

Q. Will you name him, please? A. What?

Q. Will you name him, please. A. Hank Lavery.

Q. Lavery? A. Lavery. He called me on the telephone and he told me that I was appointed as a delegate at the 25th convention in Chicago.

I asked him who appoint me. He told me Hunter P. Wharton appoint me.

And at the time I told him that I believe [1055] in an election. I rather be elected; but it seems that there is no alternative. The rest of them been appointed. I told him that I would give him an answer, and I think he give me four, five days for me to answer, and in the meantime I sent a letter to him. I have the letter here.

Q. Have you got a copy of that letter? A. Yes, sir. I have a copy of that letter.

(Letter from Colombo Acchione to Harry W. Lavery, Assistant Supervisor, Local Union 542, dated March 12, 1956 was marked Exhibit P-70 for identification.)

MR. FREEDMAN: P-70 is a copy of a letter from Colombo Acchione to Harry W. Lavery, Assistant Supervisor, dated March 12, 1956.

By MR. FREEDMAN:

Q. Mr. Acchione, is this a copy of the letter that you sent to Mr. Lavery. A. Yes, sir.

Q. Will you read that, please.

"Harry W. Lavery, Assistant Supervisor
"Local Union 542. I.U.O.E.
"419 City Center Building
"121 No. Broad St.
"Philadelphia 7, Pa.

"Dear Sir and Brother:

[1056] "This will confirm our telephone conversation of Saturday evening, March 10, when you called to advise me that I had been selected for appointment as one of the fifteen delegates to attend the International Union Convention to be held at Chicago in April, 1956.

"I have decided to accept the appointment, but, in doing so, I wish to make it clear that my position with respect to appointment, rather than election, of delegates remains unaltered.

"As you know, it has been my consistent position, and still is, that all affairs of our Local Union, including elections, should be under the control of the Local membership and its elected officials.

"Fraternally yours,
"Colombo Acchione
"1753 So. Dorrance St.
"Philadelphia 45, Pa."

Q. Now, did you attend the convention as a delegate? A. I have another letter here that I also wrote to Hank Lavery.

[1057] Letter from Colombo Acchione to Harry W. Lavery, Assistant Supervisor, dated March 27, 1956 was marked Exhibit P-71 for identification.

MR. FREEDMAN: P-71 is a copy of a letter from Colombo Acchione addressed to Harry W. Lavery, Assistant Supervisor, dated March 27, 1956.

By MR. FREEDMAN:

Q. Mr. Acchione, I show you P-71 and I ask you

whether that is a copy of a letter that you sent to Mr. Lavery. A. Yes, sir.

Q. Will you read it to the Court, please. A:

"Harry W. Lavery, Asst. Supervisor
"Local Union 542—I. U. O. E.
"419 City Center Bldg.
"121 No. Broad St.
"Philadelphia 7, Pa."

It was March 27, 1956.

"Dear Sir:

"Since notification was received from your office that I was to be one of the Delegates to the International Convention representing Local Union 542, I have waited patiently for my copy of proposed constitutional amendments to be considered and voted upon at the Convention beginning April 9, 1956, at Chicago.

[1058] "As you know, the International Constitution requires that the proposed amendments be distributed to the delegates 30 days prior to the date of the Convention in order that Delegates attending may fully digest and understand matters upon which they must vote.

"Will you please advise as to why the Constitutional requirement has not been observed in this instance and when I may expect to receive my copy of the proposed amendments?

"Fraternally yours,
"Colombo Acchione
"1753 So. Dorrance St.
"Philadelphia 45, Pa."

Q. Did you get any answer to that letter? A. No, sir.

Q. Did you get a copy of the proposed amendments before you went to the convention? A. No, sir. I got it on the convention table in Chicago.

Q. Did you go to that convention alone or did you take anyone with you? A. I had three guests with me.

Q. And who were they? [1059] A. Was Mr. Underwood, Homer Dawson and Robert Driscoll.

By MR. O'BRIEN:

Q. What was the last name, sir, that you mentioned? A. Robert Driscoll, Bob Driscoll.

THE COURT: I still don't understand the third one.

MR. FREEDMAN: Sir?

THE COURT: Who is the third one?

MR. FREEDMAN: Robert Driscoll.

THE COURT: Robert Driscoll?

MR. FREEDMAN: Yes, sir.

By MR. FREEDMAN:

Q. Now, will you tell us what happened at that convention, Mr. Acchione, please.

MR. O'BRIEN: Objected to.

THE COURT: I can't see the relevancy of it but I will permit you to go ahead.

MR. FREEDMAN: Well, perhaps I will find out about it, sir.

By MR. FREEDMAN:

Q. Did you take any active part in that convention, Mr. Acchione? A. Yes, I did.

Q. Did you present any resolutions yourself? [1060] A. Yes; I did.

Q. Did you at any time during the course of the meetings attempt to be heard? A. Yes; I did.

Q. Were you given a fair opportunity to be heard?

MR. O'BRIEN: Objected to.

THE WITNESS: Only one time—

MR. FREEDMAN: Wait a minute.

THE COURT: Wait. That question is objectionable. I will sustain the objection.

[1061] MR. FREEDMAN: Mark this, please.

(Paper headed "Anti-Racketeering Resolution," submitted by Colombo Acchione, was marked Exhibit P-72 for identification.)

MR. FREEDMAN: P-72 is a paper entitled "Anti-Racketeering Resolution," signed by Colombo Acchione, Local Union 542, 542-A and B.

By MR. FREEDMAN:

Q. Mr. Acchione, I show you P-72 and I ask you whether you presented that resolution to the convention. A. Yes, sir.

Q. Will you tell us what happened, please.

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. First read the resolution to the Court, please.

MR. O'BRIEN: That is objected to.

THE COURT: I will sustain the objection at this time.

By MR. FREEDMAN:

Q. Tell us what happened, Mr. Acchione. First of all, when did you present the resolution? A. To the general secretary-treasurer, Mr. Gramling.

[1062] Q. Is that in accordance with the constitutional requirement? A. That is right.

Q. And when did you present it to him? A. I think it was the third day of the convention.

Q. What happened A. I think that day at two o'clock was the deadline to announce it on the floor, for anybody that had a resolution to introduce, to present it before that time at the meeting so they would have enough time to discuss it.

I did.

On that day, I don't believe it was very long after I introduced the resolution, Mr. Delaney, the fourth vice-

president of the International, came to me and told me, "I want you to appear before the Resolutions Committee tonight right after the session here. If it is 4:30 or five, whatever time we get through here, I want you to appear before the Resolutions Committee."

Q. That was Mr. Delaney who said that? A. Mr. Delaney.

Q. Go ahead. A. Well, at the time I told him, "I don't think I have [1063] to appear there. The resolution speaks for itself."

"Well, we want you to be up there."

That evening just before the meeting was over he came to me again. "We are going to wait for you on the third floor, Room 8. Make sure you be there."

By THE COURT:

Q. Did you go? A. Yes, I did.

By MR. FREEDMAN:

Q. What happened at that meeting? A. Well, it was ten members of the Resolutions Committee there, plus Hunter P. Wharton and Harry Lavery, who was a member of the Resolutions Committee. Mr. Delaney was chairman of the Resolutions Committee.

Mr. Thomas, the general counsel, he asked me, "We want to ask you some questions about the resolution."

First he asked me how I felt. He had understood I was in the hospital, I hadn't been feeling well, and I told him I was feeling pretty good.

He asked me if anybody had threatened me on the convention.

Q. Anybody had what? A. If anybody had threatened me on the convention. [1064] I told him I wasn't.

He says, "We want to ask you some questions about your resolution. Where did you get this resolution printed?"

I said, "I don't think that's important for me to answer. What's the difference where I got it printed. I signed it, didn't I?"

"Well, did you make this resolution?"

I said, "Me with a committee of local autonomy together, we made this."

"Well, where did you get it printed?"

"Well," I said, "I don't think it is important. What's the difference where I got it printed. I didn't print it myself."

"Well, don't you want to tell us?"

"Well," I said, "I don't think it is important. What's the difference?"

"Did Mr. Freedman make this resolution?"

I said, "No, sir."

Q. Will you continue. A. He says, "Did Mr. Freedman make this resolution?"

I said, "No, sir, I haven't saw Mr. Freedman for a long time."

[1065] Well, he asked me again, "Where did you get it printed?"

Well, I was sick of repeating that. I told him I got it printed here in Chicago, which I didn't. I got it printed in Philadelphia here. I didn't have it printed; some other members had it printed.

Q. Go ahead. A. "How come you didn't file an appeal to the convention here?

"Well, I think it was useless, and we have a court case pending in Philadelphia."

"Did you file an appeal before to the General Executive Board?"

I said, "We did, and I think we got notice one time that a General Executive Board meeting was going to be held in Miami Beach, Florida, Monte Carlo Hotel, and the notice wasn't clear that we was going to be heard or not, and then it was so far away, we even wrote a letter, and I don't recall if we got an answer, if we did go down there, if we would be heard or not."

Then he asked me some other questions and I told him that if he was going to rehash the whole case, I know a lot about it, but wasn't prepared to answer, [1066] and

if I was going to be questioned by a lawyer, I want a lawyer with me to advise me to answer.

Well, at that point he didn't question me any longer. He says, "Anyone else want to question him?"

So Mr. Delaney started to question me.

"How long you a member of Local 542?"

I told him I think twenty years.

"How long have you been running construction equipment?"

"Since 1922."

"Well, you run construction equipment for over thirty years, and you are only a member of the local twenty years."

"That's right."

"Well," he says, "you see, the man is living in Philadelphia and he run construction equipment over thirty years and still only become a member of the organization twenty years. You can see that he is a very good union man."

"Well," I say, "Mr. Chairman, you are the one say that I only made my living in Philadelphia. I didn't say"—

MR. O'BRIEN: If Your Honor please, I submit this is completely irrelevant and immaterial to the
[1067] issues of the trial.

THE COURT: I don't see how it can be relevant, but I am going to give everyone a chance to have his say in this case. Go ahead.

THE WITNESS: I said that I didn't only work in Philadelphia, I worked in Boston, Massachusetts; I worked in Jersey; I worked in Maryland; I worked in Washington.

And he asked me, "You accusing the official of the International of many things, and that is against the International constitution. That is criminal accusation."

I say, "I ain't accusing anybody."

"Well, this resolution here says about racketeering."

Well, at that time I said that I have a book here that I read and I read newspapers that tells me that there has been a lot of racketeering in the Operating Engineers organization.

At that point Mr. Thomas said, "Read that book."

Well, the beginning of the book say Underwood and local autonomy. I read that part. He stopped me.

[1068] Mr. Thomas say, "Well, we didn't make up this story that's in this book. The story in here is out of a newspaper, out of a Court decision. It is out of a magazine."

Well, Mr. Delaney at that point, he says, "Well, all those men, they no longer members of the organization. They have been thrown out by the International."

"Yes, that's right," I say, "but they have been convicted by Court. The International itself never investigated and convicted those men."

At this point another member, Cuffe, from Buffalo, New York, another member of the Resolutions Committee, asked me, "Where was you born?"

I say, "I don't think that pertains to the resolution either. I was born in Italy."

"Are you a citizen?"

"Yes."

"Well, you are a citizen of this country, and you should know the Constitution provides that any man should get a fair trial before he is convicted. You want us to convict a man without a fair trial."

I say, "You are the one saying that. I didn't say that at all. I said that the International [1069] should investigate a member of the organization if they are a racketeer or extort money and then try him and convict him if he is found guilty."

I say, "You give Underwood a trial and convict him but not a fair trial."

[1070] Q. Mr. Acchione, was the resolution adopted by the convention? A. No, it was not.

THE COURT: Have you had the resolution marked?

MR. FREEDMAN: Yes, Your Honor.

THE COURT: Now if you care to ask him to read it you may.

By MR. FREEDMAN:

Q. Will you please read that resolution.

MR. O'BRIEN: Objected to.

THE COURT: Before you read it, I am going [1071] to ask you a question. Who drafted it?

By MR. FREEDMAN:

Q. Who made up that resolution? A. Well, it was me, Mr. Underwood, and it was quite a few more members. It was in a meeting. We got together, and after we got it all together, I gave it to Mr. Underwood and he had it printed or mimeographed or whatever it was.

By THE COURT:

Q. Let me ask you a question. Are you willing to tell me who the rest of those members were? Just answer that yes or no. A. Yes.

Q. Who were they?

If you don't care to have him answer that question, Mr. Freedman—

MR. FREEDMAN: I have no objection.

A. I recall quite a few of them. Bill Hogan was there, Gus Binder, Jimmie Russell, Mike Concordia, Henry Jafolla, Bob Walsh.

That's about all I can remember. The meeting was many more members than that, but I can't just recall the names.

By THE COURT:

[1072] Q. All right, you may read the resolution. First of all, did the Resolutions Committee pass favorably upon it or did they reject it—to be brought before the delegates? A. I requested that they read it to the delegates. My request was denied. They didn't even read the resolution to the delegates.

Q. In other words, it was not approved by the Resolutions Committee? A. That's right.

Q. That is in accord with the procedures and rules of the convention, isn't it, that resolutions have to be approved by the Resolutions Committee? A. Yes, I guess so.

Q. Well, do you know, Mr. Acchione? I am not trying to put words in your mouth. Do you know? A. No, I am not sure.

Q. Then your answer is you are not sure, you really don't know the right answer? A. That's right.

Q. Never hesitate to tell me that you don't know something. A. Thank you, sir.

[1073] By MR. FREEDMAN:

Q. Now will you read it to the Court, please.

THE COURT: Let us save time. Let me read it.

(The Court read the copy of the resolution, Exhibit P-72.)

MR. FREEDMAN: Do you want him to read it?

THE COURT: No. It is an exhibit marked now, and I have read it, and I don't think we need to extend the record by four or five pages and take up twenty minutes to have him read it.

MR. FREEDMAN: May I just, then, instruct the reporter to copy it into the record at this point as though it had been read?

THE COURT: You may do that if you want to do it.

MR. FREEDMAN: I would like it, sir.

MR. O'BRIEN: That is objected to.

THE COURT: I know it is objected to, and I am going to overrule the objection.

(The paper referred to, Exhibit P-72, reads as follows:

"ANTI-RACKETEERING RESOLUTION

"Submitted to the 25th Convention of the [1074] International Union of Operating Engineers-AFL-CIO—April 9, 1956—Chicago, Ill.

"WHEREAS scores of highly reputable newspapers and other well known publications throughout the United States have been, for a long period of time, publishing accounts of welfare fund looting, misappropriation of union funds, secret deals and arrangements affecting collective bargaining agreements to the detriment of our union members interests, undemocratic and un-American union administrative practices; all reportedly engaged in by officials of our International Union and or its subordinate branches; and

"WHEREAS such practices, if permitted to exist and continue, would deprive sick and disabled members and their families of a substantial portion of welfare plan benefits which they would otherwise receive; deprive members of the control and benefit of union treasury funds which are in fact their property; deny to members the benefit of wages and conditions of employment provided for in effective collective bargaining contracts; deprive members of a proper voice and participation in the administration of affairs of their respective Local Unions and [1075] the International Union; and

"WHEREAS this nation-wide publicity has brought our entire union into disrepute and fastened an undeserved stigma on hundreds of thousands of decent and honorable craftsmen who make up the membership of our union; therefore be it

"RESOLVED that the Attorney General of the United States be formally requested and urged to immediately institute a full scale investigation of our International Union and its subordinate branches for the purpose of determining whether:

"(a) Administrative practices of union officials are such as to deprive our members of their Civil Rights.

"(b) Union treasury funds are being improperly or unlawfully diverted and used for purposes not specifically authorized by our membership.

"(c) Welfare funds, Pension funds, etc. are being administered in a lawful and proper manner consistent with the best interests of our membership.

"(d) Our union members are being deprived [1076] of any rights, privileges, or immunities granted all American Citizens by the Constitution of the United States.

"(e) Federal Anti-Racketeering Statutes are being, or have been, violated by any person or persons within our International Union or any of its subordinate branches.

"Respectfully submitted by:
"Colombo Acchione
"Local Union 542-542-A-B
"Philadelphia, Pennsylvania."

By MR. FREEDMAN:

Q. Now, Mr. Acchione, what evidence of racketeering did you know of at the time you presented that resolution?

MR. O'BRIEN: Objected to, sir.

By MR. FREEDMAN:

Q. That is, in the International Union.

THE COURT: That he personally knows.

MR. FREEDMAN: Well, knowledge which came to him through various sources.

THE COURT: I will sustain the objection to that question.

By MR. FREEDMAN:

[1077] Q. Mr. Acchione, did you know at the time this resolution was presented that there had been a number of high officials in the International Union who had been convicted of high crimes?

MR. O'BRIEN: Objected to.

A. Yes, sir.

THE COURT: I will overrule the objection.

THE WITNESS: Yes, sir.

By MR. FREEDMAN:

Q. Do you know who some of those officials were?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Yes, sir.

By MR. FREEDMAN:

Q. Will you tell us who they were, please.

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Well, I know of our supervisor, Joe Fay, had been convicted. I know that Dekoning from Local 138 had been convicted.

By MR. FREEDMAN:

Q. Who was he and what was his position in Local 138?

A. I think he was business manager of Local 138, Long Island.

[1078] MR. O'BRIEN: I move that that be stricken. The question was, officials of the International. That was an official of the local.

MR. FREEDMAN: In which this was included. It is all part of the International. I am going to follow that right up, sir.

MR. O'BRIEN: I move that the answer be stricken.

THE COURT: Motion denied.

By MR. FREEDMAN:

Q. What was Mr. Dekoning convicted of, do you know?

MR. O'BRIEN: Objected to.

THE COURT: Mr. Freedman, I am allowing you a terrific latitude, and let us not abuse the privilege.

MR. FREEDMAN: Very well, sir.

THE COURT: There are very definite ways of establishing facts, and I don't want to put you to the trouble of being completely technical about proving it. I have gone pretty far. Now, let us keep it within limits.

By MR. FREEDMAN:

Q. Up to the time that Mr. Dekoning in New York was convicted—

MR. O'BRIEN: That is objected to. It has not been established that he has been convicted.

[1079] THE COURT: He said he had hearsay knowledge that Dekoning had been convicted of a crime. What it was, I don't know.

MR. FREEDMAN: That's what I was trying to establish next, sir.

THE COURT: Does this witness know?

MR. FREEDMAN: This is a matter of public knowledge when they are convicted, and it is on the books, Your Honor.

MR. O'BRIEN: I object to that kind of testimony.

THE COURT: I am going to permit, within limitations, matter of that sort to be testified to. Dekoning, business manager of Local 138, was convicted. Fay, who had been an International vice-

president, as I understand it, and was supervisor until 1947 of the local here, No. 542, was he convicted of any crime in connection with the operation of this local, 542?

MR. FREEDMAN: Not this particular local.

THE COURT: All right, go ahead.

By MR. FREEDMAN:

Q. Up until the time he was convicted, was that local placed under supervision?

MR. O'BRIEN: Objection.

[1080] THE COURT: Sustained.

By MR. FREEDMAN:

Q. Do you know whether or not the local of which Mr. Dekoning was business manager was placed under supervision prior to or since the time Mr. Dekoning was convicted? A. No, sir.

THE COURT: The answer to that question has to be he doesn't know, according to the answer he gave. The answer had to be yes or no, he did know or he didn't know, and he said no.

By MR. FREEDMAN:

Q. Do you know or don't you know whether or not— A. I do know.

By THE COURT:

Q. How do you know?

By MR. FREEDMAN:

Q. How do you know, Mr. Acchione? A. Well, I talked to some of the members.

Q. What members? A. Of Local 138.

Q. Where did you talk to them? A. I talked to them at the convention. I talked to them here in Philadelphia one time.

[1081] Q. And your information was supplied from them? A. Yes. The local still has local autonomy.

Q. Now, are there any other International officers who have been convicted of crimes in connection with union affairs?

MR. O'BRIEN: The same objection.

THE COURT: You are assuming something in that question, and there is no proof here now up to this point that anybody has been convicted in connection with union activities.

MR. FREEDMAN: Well, sir, so far as Dekoning is concerned, it is a matter of public record, and I think the citation will be furnished to Your Honor and it is something that Your Honor can take judicial notice of. That is why I am not pursuing that here now. I intend to follow that up.

THE COURT: When you assume a fact in a question, and that fact is not in evidence as yet, I want you to be cautious about it.

MR. FREEDMAN: Before the case is over, sir, if I may, I would like to furnish Your Honor with the citations of these other cases I referred to, the Jasper White case and the Joe Fay case, showing not only that they were convicted, but what they were convicted of, [1082] and all of those matters appear right in the opinion.

THE COURT: All right.

By MR. FREEDMAN:

Q. Were there any other officers of the International who had been convicted in connection with union affairs?

MR. O'BRIEN: Objected to.

THE COURT: I will overrule the objection.

A. Yes.

By MR. FREEDMAN:

Q. Who were they?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

International Trustee O. B. Soucie.

By MR. FREEDMAN:

Q. What are the duties of the International Trustee? A. Well, he has control of property, money of the International.

[1083] THE COURT: Let us get something straight here. That is a fact that can be easily established. Is there only one trustee?

MR. FREEDMAN: Sir?

THE COURT: Is there only one trustee?

By MR. FREEDMAN:

Q. How many trustees are there? How many trustees are there in the International Union? A. I am not sure if there is two. I know that Hunter P. Wharton is one. He was replaced after O. B. Soucie was convicted.

THE COURT: What is the name of this man?

MR. FREEDMAN: O. B. Soucie—S-o-u-c-i-e, sir.

By MR. FREEDMAN:

Q. Are there any others that you recall at the moment?

THE COURT: Where was he, in the New York area, too?

MR. FREEDMAN: No, sir.

By MR. FREEDMAN:

Q. Where was Soucie from? A. Soucie was from Ohio. I am not too sure about that, either, but I do have paper clipping home just specifying just where he was from and all.

[1084] Q. Do you recall any others at the moment? A. Yes. There was another International officer in the State of St. Louis. He was also convicted for ten years for racketeering and extortion.

Q. Where was he from?

MR. O'BRIEN: I move that the answer be stricken. He has not been identified.

By MR. FREEDMAN:

Q. Will you identify him, please, Mr. Acchione? A. I can't remember the name. His name was Frenchie, I think, but—

By MR. O'BRIEN:

Q. What was his name? A. Frenchie.

Q. Frenchie? A. Yes.

THE COURT: We will furnish Your Honor with these citations, sir, before this is over.

MR. O'BRIEN: Well, in the meantime, I move that the answer be stricken.

THE COURT: I suggest that you furnish them rather rapidly. I will say by 2:00 o'clock.

MR. FREEDMAN: Well, we will have to get the citations from the Far West. They are State cases. |1085| We will do our best to get them. I will make my very best efforts to have them here.

THE COURT: We have the most wonderful law library of every state. We have the state and county reports of every state. We have it here. So you should have no difficulty to have them here by 2:00 o'clock. It is at Room 600, City Hall, Philadelphia.

MR. FREEDMAN: Well, am I limited to 2:00 o'clock—

THE COURT: Do your best.

MR. FREEDMAN: —sir, or am I limited—

THE COURT: Do your best to get them.

MR. FREEDMAN: I will do my best to get as many as I can by 2:00 o'clock, sir.

THE COURT: All right.

MR. FREEDMAN: And I would ask Your Honor's indulgence to permit me to introduce additional citations as I am able to procure them, sir.

THE COURT: All right.

MR. FREEDMAN: Thank you, sir.

By MR. FREEDMAN:

Q. One more question about the convention: Was it a closed session or was it an open session?

MR. O'BRIEN: Objected to.

|1086| THE COURT: The convention itself?

MR. FREEDMAN: Yes, Your Honor.

THE COURT: Well, it could be either. What inference would be drawn from that?

MR. FREEDMAN: Well, sir, if the public was excluded from a general convention of that sort under circumstances where the public had some interest in what was going on, I think an inference could be drawn, sir.

MR. O'BRIEN: Of course, I don't agree. You don't open a country club to the public at your annual meeting.

THE COURT: I have attended many conventions as a member of very large organizations, and, of course, maybe times have changed, because I haven't been to one in a lot of years, but I have no recollection, except under very exceptional circumstances, where any meeting I ever attended or convention had open meetings, except the final meeting. So the experience of this jury can't draw any unfavorable inference on open or closed.

However, I will permit the question. I just want to point that out.

MR. FREEDMAN: May I state this to Your Honor; I think Your Honor is assuming that at least all of the members of the organization, whatever it might be, are |1087| entitled to attend the general sessions, even though they may otherwise be closed to the public.

THE COURT: On that I don't agree with you.

MR. FREEDMAN: Well, my own experience has been, sir, that general sessions of any organization are always offered to the members of the organization.

THE COURT: To a few; yes.

MR. FREEDMAN: Well, all the general sessions. I would say that only perhaps the committee meetings or the board meetings are closed or are sometimes closed to all others other than the board.

THE COURT: All right. Let us get on, please.

By MR. FREEDMAN:

Q. Will you answer that question, please, Mr. Acchione.

THE COURT: Was it open or closed?

THE WITNESS: It was open for the first two days and then was closed. All the press, members that was up in the gallery, wife of a delegate, everybody was put out.

By MR. FREEDMAN:

Q. Now, were any members other than delegates permitted to attend the sessions after it was closed? A. No, sir.

[1088] Q. So that only the delegates themselves could attend after the sessions were closed; is that correct? A. Well, I believe it was some honored guests or something that speak that was—

Q. Well, I mean other than the speakers. A. What?

Q. Other than the honored guests. A. No, sir.

Q. Now, Mr. Acchione, have you had any trouble in the payment of your dues? Let me ask you first: How have you paid your dues in the past? And I direct my question specifically to the amount of money which you paid. Was it one month or three months, or what? A. I generally pay three to six months mostly all the time.

Q. And how long did you do that, over what period of time? A. Mostly all the time till we file suit against the International. I am one of the plaintiffs. The whole

twelve of them was stopped from paying more than one month's dues.

Q. Do you know that of your own personal knowledge? A. Yes, I do.

Q. Well, how do you know it? [1089] A. Well, I sent my daughter-in-law up to pay dues. I sent six months for myself and my son also paid six months. They accept his, my son) but they only took one month of my dues. My daughter-in-law asked. She says, "That is the order I have."

Q. Did you ask the supervisor about it? A. Yes, I did. I—

Q. What did you say to him and what did he say to you? A. I called Mr. Hunter P. Wharton and I told him that I have been paying all—practically all time since I have been member three or six months advance. I mean, that was told us by the supervisor before, too, to pay at least three months in advance to be in good standing.

"Well, no; I sent my daughter-in-law to pay them. They told me they only want one month dues."

"Well," he told me, "I didn't think you wanted to trust us with more than one month's dues." He says, "You suing the International."

"Well, you the one to say that now. I sent my money up there."

And he says, again, "Well, I still feel that you didn't want to trust us for more than one month dues. I think if you suing the organization you probably wanted to get out or something."

* * * * * * *

[1119] MR. FREEDMAN: If the Court please, there is one other matter I would like to take up. When I asked for the minutes the other day I thought I was getting all the membership minutes, including the meetings which have been held during supervision, sir. Now, I looked at my group that has been furnished to me and they do not include anything, I don't think, beyond 1952 from the point supervision was invoked,

sir, and Mr. O'Brien asked Mr. Acchione a question regarding a set of minutes relating to a meeting in 1956—I think it was April, 1956—and I have requested those from [1120] Mr. O'Brien, and he advises me that he doesn't think I am entitled to them, sir.

Now, I think I should have and I think that we are entitled to all of the minutes which they have.

MR. O'BRIEN: Well, our position, sir, is that it wasn't subject to his motion to produce under the discovery rules, and I think Mr. Freedman is maintaining the position now that every time we have a meeting we have to run over to him with a copy of the minutes.

We don't think they are relevant to the issues. We have never been asked. We might have been asked to produce them, although it was never subject to an order of the court, and anything, any minutes after the imposition of supervision, we don't believe he is entitled to under his motion, and we never have been asked formally to produce them.

MR. FREEDMAN: May I answer?

THE COURT: Well, you are being asked formally, and if they are available I see no reason why they should not be produced.

MR. O'BRIEN: What, all of the minutes of all our meetings to date?

THE COURT: Let him look at them. That is all he is asking. Let him look at them. Certainly.

[1121] MR. O'BRIEN: Well, sir, the history of this case is that everything that they had a chance to look into they immediately have circulated in some form of scurrilous pamphlet or news letter to the members, and, of course, we feel that we should be guarded to that extent.

THE COURT: Well, of course.

MR. O'BRIEN: Well, if he is going to have the

opportunity, he and Underwood, to come over there and to take things out, then we will see them a week later in some kind of a scandalous pamphlet. I think that we should have the protection of the court to that extent.

THE COURT: Well, let me say this, that if I find that either side here makes any publicity out of anything that happens in this courtroom until the case is over, I will pretty nearly hold them in contempt of court, and that goes for the minutes.

MR. O'BRIEN: All right, sir. I assure you that we have done none of that, sir.

THE COURT: Now, that goes for everyone involved in this case. I want no use made of the record in this case as a record or quoted in any publicity releases, letters, or anything else, until this case is over.

[1122] MR. O'BRIEN: Well, we already have a pamphlet, sir, that has been quoted, where this record has been quoted in extenso, circulated by Underwood and his people.

Now, that is why we must be very careful that we don't give the other side anything unless Your Honor directs specifically that we do it.

THE COURT: I want no use of the record made in this case.

MR. FREEDMAN: The pamphlet that Mr. O'Brien refers to quoted from a great many things, including testimony, but I fail to see, sir, where they have anything to worry about so long as there is a quote, particularly in extenso.

Let me say to Your Honor—

THE COURT: Well, Mr. Freedman—

MR. FREEDMAN: Yes.

THE COURT: —I will say to you: I have had an education recently in the use of truthful statements set in a wrong setting, and this is the kind of

case that would lend itself very definitely to that misapplication of the truth; so for that reason, I am directing you, both sides, to make no quotation from any testimony in any releases or publicity given out in [1123] connection with this case.

MR. FREEDMAN: That is entirely satisfactory with me, sir.

THE COURT: I see no reason why you shouldn't have an opportunity to look over the minutes of the meetings that had been held under supervision. No parts of those are to be used in any publicity releases, any letters, or any information circulated to members.

MR. FREEDMAN: I would not disclose those. I say "disclose." I will not release those to anyone other than the parties involved in this. Now, when I say, "release," I will not release them; I will maintain them in my custody.

THE COURT: That is exactly what you are not to do. You are not to release them. The point of knowledge on your part is the only important thing to me.

MR. FREEDMAN: That is all that I am concerned about.

MR. O'BRIEN: Well, we have no quarrel—

THE COURT: Well, I say that you can see the minutes.

MR. O'BRIEN: All right, sir.

MR. FREEDMAN: I will make photostatic copies, [1124] sir.

MR. O'BRIEN: Well, now, Your Honor didn't go that far originally.

THE COURT: I haven't gone that far. If there is any particular one that you want, let me know.

MR. FREEDMAN: Well, Your Honor, in order for me to properly prepare this case, I have got to study them. When I say, "study them," I mean read

them over, compare them with other minutes, because just as Mr. O'Brien brought something up here this morning, there might be something that might come out by one of their witnesses, and if I don't have the minutes before me, I can't check. If I can see them, I should certainly be able to make copies, and a photostatic copy is—

THE COURT: Yes. You may have one photostatic copy which is to remain with you.

* * * * * * *

[1138] MR. O'BRIEN: If Your Honor please, I believe that is all I have with this witness, but I would like to address Your Honor regarding Your Honor's ruling right after the luncheon recess that the record in this case was not to be used for publicity purposes.

As I was coming into the courtroom from lunch, Mr. Underwood was handing to this young lady in the front row here a copy of that pamphlet which I chose to call scurrilous and scandalous, in which pamphlet the record of the depositions in this case are quoted, for the most part out of context.

After Your Honor recessed this Court to permit Mr. Acchione to read the Resolutions Committee Report, I went over to Mr. Freedman and said that, in fair [1139] ness to him, I would call attention to the fact that Underwood was giving that pamphlet to this young lady.

This young lady asked counsel for the defendants a few days ago if we would brief her on this case and comment on the case for her purpose in writing a thesis at school. I believe she said she went to the University of Pennsylvania, and I and other counsel refused to comment at all. In fact, we just said, "No comment."

I called Mr. Freedman's attention to the fact that Mr. Underwood was giving that pamphlet to this young lady, and he said, "Oh, that's all right. That doesn't come within the order of the Court, because it quotes from the depositions."

I explained to him that I thought the depositions were part of this case, and he did not agree, and he said, "Let's see the judge about it."

As far as I am concerned, we are seeing you now, sir, and I should like to have the matter clarified.

THE COURT: At this point my ruling will go to every deposition and every record in the case, from here in. What has been done in the past can't be undone, but it goes to everything, the entire record in this case, at this point. I am going to control the [1140] record from here in.

* * * * * * * *

THE WITNESS: Your Honor, can I make another statement?

THE COURT: Anything that you want to say in connection with any of the testimony you have given, Mr. Acchione, of course, you may.

THE WITNESS: I also want to say that the chairman of the Resolutions Committee, Mr. Joe Delaney, took the floor at the convention and he spoke about me, that I wasn't entitled to be in the convention, I was highly recommended to the gentlemen present, but I was a scab, I run construction equipment for over thirty years, that I only joined the union for twenty years, and what a [1141] good man he himself was, that he was for twenty-nine years consecutively re-elected to office; he spent $16,000 on a political campaign out of his own pocket, and he had still the check vouchers to prove it.

And this wasn't in the proceedings, no record of any kind. I didn't see that speech no place.

THE COURT: Anything else, Mr. Acchione?

THE WITNESS: Well, an appeal was presented to the Adjustment Committee about these two boys from Long Island, New York, and when it came on the floor, I voted for the reinstatement of those boys. I didn't know too much about their case, but I read so much about Dekoning, Sr., and Dekoning, Jr., that they was both convicted, one went to prison, and I felt, "How wrong could those boys be?" I voted in their favor, and my vote was ignored.

* * * * * * * *

THE COURT: Anything else?

THE WITNESS: That is all, sir.

MR. FREEDMAN: I have no further questions.

GERARDO LEONE, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

[1142] Q. How old are you, Mr. Leone? A. Forty-eight.

Q. Where do you live? A. 122 Glenn Harbor Road, Havertown, Pennsylvania.

Q. Are you married? A. Yes, sir.

Q. Do you have any children? A. Three.

Q. What is your occupation? A. Operating engineer, sir.

Q. How long have you been working at that trade? A. Thirty-three years, including the two years in the Navy, sir.

* * * * * * * *

[1153] Q. Mr. Leone, when did you first join the union? [1154] A. December of 1940.

Q. December, 1940? A. Yes, sir.

Q. That is Local 542, was it? A. 542-B.

Q. You got a B book in the beginning? A. Yes, sir.

Q. And when did you get into the parent body? A. I

am not sure, but I think just before I went into the Navy. It was some time in early 1940—mid-1943 or early 1943 I transferred into the parent body.

Q. During the period before you entered the service and after you came out, until supervision was ended, did you have an opportunity to observe conditions as they were, conditions in the local union under supervision? A. I did.

Q. Did you attend meetings during that period? A. I did.

[1156] Q. Let me rephrase. Who presided at these meetings during this period of supervision until 1948? A. Mr. O'Brien, Mr. Mogan, Mr. White, Mr. Fay. I don't know just who was really the president. I wasn't aware of just who really was the president until Mr. Mogan—

Q. Well, I don't mean who was president. I want to know who conducted the meetings. Was it one person or was it more than one person? A. Oh, there were several persons there. I don't seem to get the question, because Mogan—

By THE COURT:

Q. Well, you have to have a chairman of every meeting. [1157] Somebody has to get up. I am the judge of this court. Somebody at every meeting is a presiding officer or is the chairman of the meeting. Now, that is what we are talking about. Who called the meeting to order? A. Mr. Mogan, Mr. O'Brien. Mr. Mogan, that I remember.

Q. Who had the agenda in front of him to take up the different matters? That could be the same man or a different man. A. As far as I could remember, Mr. Mogan was supposed to be the president, and he stood there at a little plat—a little stand, and he was supposed to be the president. But, Your Honor, you are the judge of the court here. No one pushes you away out of the chair. You don't see a half dozen men floating up here.

THE COURT: That isn't exactly it.

MR. O'BRIEN: That is an understatement.

THE COURT: And the first one that steps up, I have Mr. Davies here. When that happens to me we are talking about the dignity of the United States. That is what this court represents. So that wasn't a good analogy that I used.

By MR. FREEDMAN:

Q. Well, let me put it another way, Mr. Leone. Did anyone other than these individuals that you have mentioned [1158] participate in the conduct of the meeting from time to time, meetings from time to time? A. Yes; there were.

Q. Well, will you tell us who they were, please. A. Mr. Fay come in there.

Q. He was the supervisor? A. He was the supervisor. And Mr. White. One specific meeting I remember distinctly.

Q. Well, I am not getting down to specific meetings yet. Will you just tell us the various people who participated in these various meetings during this period of supervision. You have given us Mr. Fay. I think you said Mr. White,

THE COURT: Mr. Mogan, Mr. O'Brien. Who else, if anybody?

THE WITNESS: There was Mr. Fay, Mr. White, Mr. O'Brien, Mr. Mogan, Mr. William Carter, Mr. Jack Carter, and there was others up there on the stand from time to time that to this day I don't know who they are.

By MR. FREEDMAN:

Q. That is a fair answer. All right. Now, will you tell us, please, how these various individuals conducted meetings. A. Well, it seemed that when these fellows come in, they took over the meetings.

[1159] Q. Now, when you say, "they took over," will you tell us how in general they conducted them. Were

they orderly or otherwise? A. They, the meetings, weren't orderly. I remember men that tried to get up, and they said, "He is an A man. Set him down. He has no voice."

A man got up. He was a B man. "Set him down. He has no voice."

If a parent body man got up, they called him a scab. "Set him down."

I noticed at these meetings where men walked up and down the aisles and were just looking at who would get up and what they would say, and ready to pounce on them at every opportunity.

Q. Let me ask you this: Was there any violence during that period? A. Oh, yes.

Q. Was that a common occurrence or was it infrequent? A. Well, there was a couple of them where people got hit, and—I don't know—in a period of—I am thinking of a long period. I am thinking of a long period of, let us say, from 1941 to my going into the Navy. Let us take that period of time.

[1160] Q. Well, let me ask you this: What did they discuss generally at these meetings? Did you discuss negotiations for contracts? A. Oh, I don't remember any contracts being negotiated. I don't remember anything like that.

Q. Did the membership have anything to say about the contract negotiations or the demands which were to be presented during that period? A. Not that I remember.

Q. Did you attend most of those meetings? A. Most all of the meetings; yes, sir.

Q. Are you able to state whether the members when they attended the meetings were given an opportunity to speak concerning the business at hand? A. No; no. Anyone that had a grievance, he wasn't given an opportunity to be heard, because he would be shouted down. The only one that could speak is anyone that spoke in favor of the

party that was in office there. They controlled the supervision of the local union. Others were given no opportunity to speak. They were shouted down and threatened.

Q. Now, let me ask you this: Do you know whether or not there was contract enforcement during that period?

MR. O'BRIEN: Objected to.

[1161] THE COURT: If he knows, he may testify, but he has to have personal knowledge.

THE WITNESS: I will answer it yes and no.

Q. Do you know? Do you have personal knowledge? That is on jobs that you worked on or were familiar with. A. On jobs that I worked on; yes.

Q. All right. Give us your personal knowledge, will you, please. A. For instance, on a highway job on the McDade Boulevard, I was working for Charles Finn. I was operating a back hoe there. There were other subcontractors on the job where I was operating a back hoe for Charlie Finn. I had an oiler with me.

There was other contractors there with a much larger machine than mine and there was no oiler on it, and when it was reported to the office, it was to be looked into, but it just continued.

And also on that job there was a bulldozer—a pretty large compressor, and I had been told that these things had to be reported into the office, so I was doing as I was told, but they would never correct it.

Q. Do you know of any other incidents indicating whether or not there was contract enforcement during that period? [1162] A. During the—

By THE COURT:

Q. Well, let us get something else straight here. This is an important point, too. Were the operators of those other pieces of equipment members of Local 542? A. I am pretty certain that the operator of that particular Northwest Back Hoe was a member of the local.

Q. 542? A. 542 or one of its branches.

Q. You are saying you are pretty sure. What makes you pretty sure and not sure? A. Well, I had asked him if he had a book, and he told me yes, and I took it for granted. That is at the early stages. I didn't know at that time that you have to present your book and ask him to show him your— his book, to show me his book. I took his word for it.

MR. O'BRIEN: I move his answer be stricken, Your Honor.

THE COURT: I will let it stay.

By THE COURT:

Q. But he could have been slightly mistaken, could he? A. I don't think so. It was the Major Construction Company, and I don't think so.

[1163] THE COURT: All right.

By MR. FREEDMAN:

Q. Was the Major Construction Company in contract relationship was the union? A. As far as I knew; yes.

Q. And what about these other incidents? Were there any other incidents which you recall? A. I was working at the Wark job at the Supply Depot down here at 25th and Jackson, I believe it is. I was operating a hoist for the roofing contractor, and I was taken off the job because I didn't have a parent body book at that time and the job was given to a parent body man, so that they say.

That seemed to be the rule of giving the privilege of jobs to the men in the parent body local; like the 542 men, they were the parent body members and they could bump the B men at will, or the A men, or the non-member who was on the permit, who was paying permit, that had not received a membership into the union.

I am trying to recollect the other contractors whom I worked for.

I worked for the United Engineers and Constructors at the Westinghouse plant. The contract there, James

Baronett was the master mechanic and [1164] George Gaul was the steward. There were irregularities there, but I just don't remember just what the irregulartiies were, because it was between George Gaul, Jim Baronett and Mr. White. But just what the minute details were, I don't remember, but it did pertain to the employment of men on the jobs, that certain considerations had to be given to certain members of the union, like the parent body had to be given certain considerations over the subdivision men who had no voice or vote in the union, and had to be given those considerations over the permit men of the union. But I don't remember all of the details there.

And, of course, the next job I remember was with Hoffman-Wolf—was at the Pitcairn Airport—and I had been designated as the steward there by Mr. Edward Piscatelli. I had been designated as the steward, but the only activities I took in the part of the steward was in name, because someone else was collecting and I didn't have anything to do with that other than that, because in the war years, with the closed shop contract, you just had to be careful, because you would find yourself out of a job; and during the war years the hiring was done through the Hiring Hall and you had [1165] to be careful, very careful, or you would find yourself walking the streets.

Q. Let me ask you this, Mr. Leone: Were the jobs policed by the union agents at that time?

MR. O'BRIEN: At what time?

MR. FREEDMAN: During the period of supervision.

THE WITNESS: You saw them once in a while. They came around there regularly to collect the permit fee, and they wanted that money. There was no two ways about it, and they collected it, and if you so much as asked for a receipt, you were in trouble.

MR. O'BRIEN: That is not responsive. I object.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Who was it collected these permit fees? A. Mr. Piscatelli I have a vivid recollection of.

Q. Did he have another name? A. He was—he went around as the name of Eddie Edwards. That is the name he used, was Eddie Edwards, I think it was.

Q. He was a former fighter, was he? [1166] A. I don't know. I heard him say in another courtroom that he managed fighters and things like that, but I don't know.

Q. He collected the permit fees, did he? A. Yes, sir.

Q. Were any receipts given for the permit fees? A. Let us go into the year of the latter part of 1942, the early part of 1943.

Q. Well, I am talking about now for the period up to 1948, before the period until 1948 when the supervision was lifted. A. He didn't give any receipt for the money that he collected from the—he didn't give me any receipt when he collected any money from me, and he gave me a temporary receipt book which I was to make out and give to the men.

I also found out that I was supposed to receive original receipts, and these were to be distributed to the men, and I was to pick up the temporary receipt, the number of original receipts that were to come to me from the office with which to give to the men that had paid this permit fee and obtained temporary receipt form, and I never got an original receipt to cover all of the temporary receipts that were handed out, and I couldn't get a receipt from Mr. Edwards or Piscatelli for the monies that I gave [1167] to him.

On one job he had made me the steward and I collected the money and turned it over to him. On the other job he made me the steward in name, and I don't know anything of what happened on that job. He had someone else collect the permit monies for him.

Now, those two jobs I worked on just prior to going

into the Navy, and there was another one that I worked on just before going into the Navy.

Q. Well, all right. We can cover that, perhaps, later. Will you tell me, Mr. Leone, did you participate in the movement to terminate supervision during that period? A. Yes.

Q. And as a result of litigation supervision was ended, was it not? A. Yes, sir.

Q. And Mr. Underwood was elected president and business manager? That was in 1948. A. Yes, sir.

Q. Now, did you become an officer of the union at that time, too? A. I did, sir.

Q. What position did you have at that time or did you get at that time? [1168] A. I was elected to trustee for one year and by virtue of that election I became a member of the Executive Board.

Q. And that was when, in 1948? A. 1948, sir; yes, sir.

Q. Did you also become a business agent at that time? A. At the end of 1948 I was a—a motion to put on an agent to assist James Baronett who had a heart condition at that time was put on the floor, and they moved—someone moved for me to assist James Baronett. I assisted James Baronett at that time, and I offered my resignation, and that was about in January of 1949, and the motion was made that I continue as a business agent, because Jimmie Baronett had recommended that I was doing a splendid job and continue—

* * * * * * * * *

[1170] Q. Now, will you tell us what you know of any change in conditions, if any, between the period of supervision and the period of autonomy from 1948.

* * * * * * * * *

[1171] THE WITNESS: The conditions improved remarkably at the meetings, because everyone was given an opportunity to speak. When—of course, at the early stages of local autonomy there was a dis-

senting group—let us say the favorite boys—that were no longer able to control the nice, lucrative jobs, and they became dissentant and tried to cause trouble, but not to the extent that anyone was restrained of speaking from any grievance or complaint that they may have had, because, as I remember, motions were put on the floor to restrain anyone from causing any commotion or anything; so that the meetings were able to progress in an orderly manner.

There came the time of the new contract—

THE COURT: You had better keep your voice up. Even I am finding a little difficulty in hearing you. You will have to talk louder, Mr. Leone.

THE WITNESS: There came the time of the new contract. I remember at the early stages there that the contract was expiring, and I remember there was some [1172] thing there at the meetings that there was no past records to go upon. This took place in the meetings—it was all orderly—and also then the extension of the former agreement which was taken up at the meetings, and everyone seemed in accord with it.

The—so that ultimately the strike resulted some time in June of 1948, and that lasted maybe a week or ten days, as I remember, and then the—we went into arbitration, and, as I remember it, as we went into arbitration we had a time there that was a bit trying, because the contract as it was supposed to be wrote, or what it was, had certain provisions and such like that. Then these things were brought up on the meeting floor.

However, as far as my recollection could go at all these meetings, when I say with exceptions of some dissenter that was just trying to take advantage of the situation or trying—or some opportunist or something like that, at these meetings people were given a, well, opportunity to speak and be heard, and everything went on orderly.

[1173] Then came the award. Then the language had to be gone over, some clarification as to the language, because Mr. Feinsinger had made the award there that brought the contract way up into the following year.

Q. Let me ask you something about contracts. Did the membership during that period of autonomy have a voice in making the contracts? A. Oh, yes.

Q. Tell us about that, please. To what extent did they participate? A. Well, they voted on all the pertinent matters to the agreement.

These things were fully explained at the meetings, which they were given an equal opportunity to approve or disapprove the questions that were brought up from time to time. They were aired at the meetings, and that is the way the meetings were conducted. These questions were brought before the Executive Board. They were discussed at the Executive Board. The Executive Board made its proper recommendations to the meetings, to the membership, and the membership took up the points and recommendations from the Executive Board.

Q. Would you say that the Executive Board played an [1174] independent role, that they exercised independent judgment in these matters?

MR. O'BRIEN: That is a leading question, Your Honor. I object to it.

MR. FREEDMAN: All right, I will withdraw it.

MR. O'BRIEN: It also calls for a conclusion.

THE COURT: Since it is withdrawn, I have no more interest in it.

By MR. FREEDMAN:

Q. Were the demands which were advanced to the contractors from time to time considered by the Executive Board at length? A. Oh, yes.

Q. Was there a negotiating team generally? A. Yes, sir.

MR. O'BRIEN: I object to the "generally."

THE COURT: He may answer the question yes or no.

What is your answer, Mr. Leone?

THE WITNESS: Yes, sir.

By MR. FREEDMAN:

Q. Who constituted that negotiating team? A. Early—let's go to Mr. Feinsinger—all of the business agents took part in that.

[1175] Q. And who was at the head of it? A. Mr. Underwood.

Q. He was the chief spokesman? A. Yes, sir, and the others took their part in it too. Mr. Baronett, Mr. DiDonato.

Q. You mean all of the business agents and Mr. Underwood? A. Oh, yes, yes.

Q. Did anyone else participate in the negotiations, that is, on the team, as a general rule?

THE COURT: Which do you want him to answer now? I am confused.

By THE COURT:

Q. How many business agents were there at that time? A. Mr. Denoncour was there too.

Q. My question now is—let's forget every other question—How many business agents did Local 542 have? A. If I am counting correctly, sir, with Mr. Underwood there were five, including Mr. Underwood, if I am right.

Q. Four business agents and Mr. Underwood. Well, you ought to be able to name them, then. Baronett was one. Who else? A. DiDonato, Denoncour. Denoncour came back, and Mr. Lavery, that was put in the upper regions, and then Mr. Al Smith, and then subsequently myself, but the order of [1176] the way they were put in, I think originally there were four and Mr. Underwood, and within the first year I think there were two more put on, and at the end of the year I think I was put on.

MR. FREEDMAN: What I was trying to do, Your Honor, was just to establish the general practice; then I was going to confine it to specific instances in connection with the various negotiations.

THE COURT: All right.

By MR. FREEDMAN:

Q. Am I correct, then, in stating that as a general practice the president and business manager and the business agents constituted the negotiating team? A. Yes, sir.

Q. Now, before the negotiating team went into session with the employers, were the demands which they used presented first to the local Executive Board? A. Yes, sir.

Q. And then to the membership? A. Ultimately to the membership.

Q. And was the approval of the membership obtained before the negotiating team went into session with the employers? A. I am sorry; I didn't keep track of your question, [1187] because I am a little bit hazy as to that first period of time in April. You see, I am a little bit hazy in there.

Q. I am just talking generally now. A. Yes, sir.

Q. As a general rule, before the demands were presented to the employers were they considered and approved by the membership? A. Oh, yes, sir.

* * * * * * * *

[1190] Q. Now, prior to May 1, 1952, will you tell us then what negotiations you had with the contractors and what the results of those negotiations were? A. I was in the negotiations with Mr. McCloskey. They were successful—

Q. He was on the independent group? A. Independent group.

Q. I am talking about the association contractors. If I didn't say that, I meant to say that. You have already testified that you affected an agreement to begin May 1, 1952, with the independents; is that correct? A. That's right.

Q. Now, I would like you to limit your testimony to negotiations between the union and the association contractors. Do you know whom I mean by the association contractors? The Philadelphia Associations, the three contractors associations, namely, General Building Contractors Association, Pennsylvania Excavators Association, and Contractors Association of Philadelphia. Do you remember those three? A. Oh, I do remember the negotiations with those.

Q. Do you remember who negotiated for them? A. Yes, Mr. Lauter, Mr. Glasgow, Mr. Halloran, and Mr. [1191] Buckley came in once. Mr. Morrissey came in also for the employers; and for us it was Mr. Underwood, myself, Pantaleo, Charles Denoncour, Mr. Lavery, Brightbill. All of the agents at different times came in on these negotiations.

Q. Who was the chairman for the employers? A. Mr. Halloran.

Q. All right, now, you tell us when negotiations were carried on at that time. A. The last negotiation I remember was in the Ritz Carlton Hotel, where Mr. Lauter of the Contractors Association offered to pay the retroactive money and start to bargain in earnest, because Mr. Halloran was certainly not attempting to bargain, so that Mr. Halloran rudely scolded Mr. Lauter—

[1192] Q. Let's not get into that, Mr. Leone. Just give us the negotiations and the results, without getting into the intimate details, please. A. Well, that dissolved that meeting there because Mr. Halloran had scolded Mr. Lauter, and that dissolved that meeting, and they wouldn't talk with us anymore until a later date after May 1, that the next I remember was when Mr. Carter came into the scene.

Q. Let me take you to May 1.

THE COURT: Let me ask you a question.

By THE COURT:

Q. Had you reached any areas of agreement? A. No —with the contractor associations, no.

Q. Had they agreed to a prospective, not retroactive, wage increase that would equal what you had with the independent contractors? A. No, sir.

Q. That is not the fact? Is that your statement? A. To the best of my knowledge we had never reached with the contractors associations here that we had reached any terms in our negotiations, if I understand you right, sir.

Q. Mr. Leone, certain rates are usually agreed upon in a collective bargaining contract, rates of pay, sometimes [1193] daily, sometimes hourly, sometimes weekly, sometimes monthly. As I understand it, the Union of Operating Engineers was usually on an hourly basis, am I right? A. On the hourly basis broken time, and the weekly basis 40 hours guarantee, sir.

Q. Now, what were your terms with the independents on that basis? What terms had you agreed upon with the independents on the basis that you have outlined here? A. On the 40-hour weekly basis and the hourly basis broken time. If the job was of a short duration, it was on a daily basis, with 12½ or 25 cents over the hour more on a broken time basis.

Q. Now, my question: You know what terms you had agreed to and the rates of pay with the independents. I think it has been testified to that that agreement was reached at least two weeks or 15 days in advance of May 1, of this particular year we are talking about.

MR. FREEDMAN: '52.

By THE COURT:

Q. '52. A. With the negotiating team of the Contractors Association?

MR. FREEDMAN: No, the judge said the [1194] independents.

THE WITNESS: Oh, the independents we had reached, sir.

By THE COURT:

Q. So that at least two weeks before May 1 you had agreed upon terms on your rates of pay, is that right? A. If I remember, sir, yes, sir, because I attended with Mr. McCloskey and Mr. Earle and Mr. Lombardi, if I remember right, yes, sir.

Q. Very well. Now we are past that. While you were negotiating with the contractors associations as they have been termed here, did the contractors agree to pay equally the rates that you had agreed upon with the independents? A. I don't remember that they agreed to pay the rates that we had with the independents because there was an argument there that they were saying we were wrong because we had taken the 25 and 15 and they were saying that it as wrong, that it was only 14. But to the best of my recollection we had not reached an agreement.

Q. I am only asking facts, Mr. Leone, and that is all I want. The answer is yes or no, you had or you had not, and it may not be of the least bit of importance, but nevertheless I want to know it as a fact. [1195] A. To the best of my knowledge, no, sir.

THE COURT: All right, that is the answer. Go ahead, Mr. Freedman.

By MR. FREEDMAN:

Q. Now, on May 1, 1952, was there any agreement reached with the contractors associations? A. No, sir.

Q. Was there a strike? A. There was a strike resulted.

Q. And that strike lasted until when? A. Oh, it lasted somewhere around 100 days, I would say, around three months, or something like that.

Q. Now, were any attempts made to negotiate during the period of the strike? A. Yes, sir, there were attempts made.

Q. Let me ask you this: Did you attend the meeting in June of 1952 in the hall on Spruce Street? A. I did, sir.

Q. Do you recall what happened at that meeting? A. I do, sir.

Q. Do you remember who addressed the meeting? A. I do, sir.

Q. Will you tell us who addressed the meeting and what was said, please. [1196] A. Mr. Underwood opened the meeting and presided there, and Mr. McDonald spoke at the meeting, and he complimented the Maritime Trades that assisted us in our efforts, and he said that the International Union was behind our strike, that our demands were just and that the International was behind us, words to that effect.

Also during the meeting there a Mr. Volpe wanted to speak—

Q. Who? A. Mr. Volpe.

Q. Who was he? A. He was a foreman for Morrissey, a member of the union.

Mr. Underwood asked him to come up to the mike where he could be heard, but the members were clamoring and didn't want to hear him, but Mr. Underwood was insistent that he be given an opportunity to speak and to be heard, that we had a democratic union.

Mr. Volpe came to the mike, he attempted to speak, he was speaking to the mike, but the members they just shouted and started to stamp their feet, and they didn't want to hear him, because they said he was a foreman for Morrissey.

MR. O'BRIEN: Objected to.

[1197] A. (Continuing)—and what he was speaking of was of no value.

MR. O'BRIEN: I move that the last part of the answer be stricken, sir.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Did anyone other than Mr. McDonald speak at that meeting and Mr. Underwood? A. If I remember, Mr.

Cardullo spoke, and he said what a wonderful group of men Engineers were, and such as that.

MR. O'BRIEN: I can't hear you.

A. Mr. Cardullo also spoke.

By MR. FREEDMAN:

Q. Who was Mr. Cardullo? A. He was the chairman of the Maritime Trades Department, of which we were affiliated.

Q. Did the membership take any action at that meeting? A. They voted to continue the strike, I know. There was a vote taken there, that they take a standing vote, to give a vote of confidence to Mr. Underwood to continue on the demands.

Q. What happened after that? Did Mr. Carter come in after that? A. Mr. Carter did come in.

[1198] Q. Can you tell us about when he came in, as you recall it? A. It would be somewhere in the middle, the middle or third week of January, somewhere—of July, somewhere in there, about the third week of July.

Q. Did you personally attend any meetings that Mr. Carter attended? A. I did, sir.

Q. Will you tell us what you saw and heard, please. A. The first I saw Mr. Carter, he was seated in the room in the Broadwood Hotel, and when we went in with the Negotiating Committee he said to Mr. Underwood, "I didn't expect you to bring the entire Negotiating Committee in here. I was to meet you and Mr. Halloran."

Mr. Underwood said that he was there with his Negotiating Committee and, as he understood it, the employer group was to meet there with us and to bargain.

So he went out of the room and he returned with Mr. Halloran, and Mr. Halloran said that he wasn't prepared to negotiate, he had not come there to negotiate, and he understood that it was to be something between Mr. Underwood and Carter and himself.

I don't remember any more what happened at that meeting because we left.

[1199] Q. Did you attend a meeting with Mr. Carter later on? A. I also attended the second meeting.

Q. And who was there and what happened? A. At this meeting Mr. Carter was there with a Duffy and Lawless.

Q. Who was Lawless? A. Lawless—he is from 825. What his capacity there is I don't remember.

Q. What about Duffy? Where was he from? A. Duffy was from 825 the New Jersey Local.

Q. Who else was in attendance? A. Mr. Halloran, Mr. Lauter, Mr. Glasgow, and later at this meeting Mr. Buckley came in.

Q. Who on behalf of the union? A. Mr. Underwood, myself, Pantaleo, Brightbill, and Charles Denoncour was at that meeting—I am not certain—Homer Dawson—there were a couple more, but I don't remember.

Q. Where was it held? A. It was held in the Broadwood.

Q. Now, tell us what happened. A. That morning we started to negotiate and Mr. Halloran, he wanted to go back to his 1949 agreement, and Mr. Underwood—we were there with our demands—he was willing [1200] to talk on any subject that Mr. Halloran wanted to talk about, and Mr. Halloran was insistent that Mr. Underwood stop talking about certain demands there because that was with the independents and that their contract was there of 1949 and that they wanted—Mr. Underwood just had to delete them in their entirety, that they had no basis, that they were the negotiating team, and that they had to talk conclusively on the '49 agreement.

They had presented us with 44 demands of theirs, and Mr. Carter continuously interrupted that entire morning with such remarks as, "Now, Mr. Underwood, you know they are window dressing and all those demands don't mean

anything," and every time that we went to talk, Mr. Carter would interrupt and break the negotiations by taking the part of the employers and that they were right and that we were wrong.

At one point there, Mr. Lavery, who had been taking down the minutes, had said to Mr. Carter, "Why don't you get on the other side of the table?"

That is the way it continued that morning. At noon Mr. Carter—

Q. Just a minute. When Mr. Catrer, as you have stated before, talked about the demands of the union, whatever they were, as you have testified, was he talking about [1201] the union demands? A. He was saying that our demands were window dressing and that we were way out of line.

Q. Very well. That is what I wanted to clear up. Go ahead. A. Then at noon Mr. Carter was insistent on taking Mr. Underwood out to lunch, to have lunch with Mr. Halloran. Mr. Underwood refused to go to lunch with them, said that he wanted to stay with the committee and have lunch with the committee, which he did.

After lunch Mr. Carter returned with a sheet of paper that he gave to Mr. Underwood and us that these are what the contractors will agree to.

Mr. Underwood looked at them—I had a rough glance at the sheet of paper—and Mr. Underwood asked who had prepared the paper, and all like that, and the talk continued, and he said, "Are you suggesting that we accept these from the contractors?"

"Oh, yes."

And Mr. Carter then noted, "Yes, you can note on the paper that it is suggestions from me," and with that the meeting continued talking on these things, and that is where the meeting broke up.

Q. Mr. Leone, I show you document marked P-41 and I ask [1202] you whether that is the paper that was brought in by Mr. Carter, or whether that is a copy of it.

A. Yes, the 39 cents and 40 cents, that we were wrong, yes, that I would say was it.

Q. This is a paper marked, "Suggestions by Mr. Carter and Agreed to by Employers." A. Yes, sir, I would say that is.

Q. All right. What happened next? You say the meeting broke up? A. Yes, the meeting broke up because that was the end of it right there.

Q. What happened after that? A. Well, after that we had—

Q. Was there another meeting with Mr. Carter? A. Oh, yes, there was another meeting after this, but first we had an Executive Board meeting, as I remember, and the Executive Board meeting then was acquainted with all of this and it was thrashed out there at the Executive Board meeting and that Mr. Underwood, as I remember correctly, he was instructed to tell Mr. Carter in no uncertain terms that he was here strictly as an observer and not to interfere in our peaceful negotiations or attempt with the contractors to arrive at a peaceful solution.

[1203] That was the crux of the thing. And that they would not accept this.

Q. When you say "this" you are pointing to P-41. A. Yes, suggestions by Mr. Carter, that they would not accept this. And that was rejected in its entirety with the instructions to Mr. Underwood to instruct Mr. Carter to sit as an observer and not to interfere in our negotiations, because before that it had come up, Mr. Lavery there told the committee how he had told Mr. Carter and the conduct of Mr. Carter, and everybody knew what Mr. Carter was.

Q. Well, now, following that meeting did you have any further negotiations with the contractors? A. We did.

Q. Did you have any more with Mr. Carter in attendance? A. Yes, with Mr. Carter in attendance.

Q. Did you attend that one also? A. Yes.

Q. Tell us what happened. When and where was it held? A. In the Broadwood again.

Q. How soon after the last meeting that you testified to? A. This seemed to have happened all within that period of time, I would say somewhere between the 18th and the 26th, or something in there, about the 22nd or 23rd, some- [1204] where in there.

Q. How long after that last meeting that you testified to did this next meeting take place? A. Oh, a day or so, because the three meetings were right in a row.

Q. That is good enough. Now, tell us what happened. A. Mr. Carter was there at this meeting and with him he had his son, Jack Carter, and there was also Duffy. And there seemed to be a couple more. Mr. Carter had at least four with him, but I don't remember—I know he had Carter, his son, with him, and the employer group was there. That was Lauter, Glasgow and Halloran, and Mr. Underwood and myself were the other business agents, and as we went into this place to negotiate, we sat down at the table and Mr. Underwood had notified the contractors that this here had been rejected by the Executive Board, and we would continue to talk, and as we prepared to continue our negotiations there Mr. Carter broke in there—I don't remember how he broke in or what, but I do remember that Mr. Underwood had said to him that he had been instructed by the Executive Board to tell him that he was here as an observer and not to interfere with our negotiations with the contractors.

He became aroused and then he said that he had [1205] been authorized by the general president to enter into and sign a contract with the Contractors Association binding 542, and Mr. Underwood asked him if he had any written authorization to that effect, and he said, "No, but I got it from Mr. Maloney last night," and Mr. Underwood had asked him if he had anything and that he didn't believe him, if he didn't have anything to back it up.

So Mr. Carter says, "Well, I have been authorized, and if you don't believe me, you go ahead and call Mr. Maloney."

So with that the meeting broke up and I had told Mr. Carter that he had certainly succeeded in scuttling our peaceful negotiations here, and that he didn't mean us well, and some other things I said that Mr. Carter then took it up, Jack Carter then took it up and said that I am using harsh words against his father.

So I says, "Whether they are harsh, or however it was, he has succeeded in his attempt to scuttle our negotiations. Who will ever be able to talk to these contractors under the circumstances? Anybody could come in here and tell them we don't have to bargain with them, that somebody else has signed a contract for us."

[1206] Q. Now, Mr. Leone, did you attend a meeting following that, a membership meeting, in connection with the telegram that had been sent by Mr. Maloney to Mr. Underwood? A. Yes, sir.

Q. I show you P-42, a copy of a telegram dated August 4. I ask you whether you have any knowledge of that telegram. A. Yes, sir.

Q. Was that matter taken up in connection with an Executive Board meeting? A. It was, sir. I remember that very well.

Q. I show you P-43, which is a telegram from Mr. Maloney to Mr. Underwood. Do you have any knowledge of that telegram A. Yes, sir.

Q. Do you know whether this telegram, P-43, from Mr. Maloney to Mr. Underwood, was presented to the membership? A. It was, sir.

Q. Can you tell us when and where it was presented? A. That was presented to the membership at Town Hall, in the theatre, and we had had an Executive Board meeting just before that meeting, in front of the stage. I remember it very well, sir.

Q. Who was in attendance at the membership meeting? A. Mr. McDonald and Mr. Wharton.

[1207] Q. Will you tell us what you recall of what was said at that meeting, please, from the platform. Who addressed the group? What did they say? A. Well, Mr. Underwood opened the meeting, and he addressed the group, and this was presented to the membership. I remember him saying his God-given right to exercise his personal opinion. "However, as it stands, it's before you members of this local union to rescind or reject, to accept or reject this telegram from the general office."

Mr. McDonald addressed the membership there, and he had said what a wonderful local union we were, and the progress that had been made since he came into the field, and a lot of talk like that, and urged that we comply and accept this telegram that Mr. Maloney had insisted we accept.

Mr. Wharton also spoke that we accept this directive from the general president, and the membership rejected it in its entirety. Somebody made a motion that Mr. Maloney himself come here and tell us why and explain to us why he is insisting that we accept the terms that he had prescribed here. The debate was carried back and forth, and it finally resolved in a vote, and the vote was unanimous, the rejection was unanimous, and also that Mr. Maloney come here and explain to us why we should accept [1208] this directive.

Q. You said they voted unanimously to reject Mr. Maloney's proposal? A. Yes, sir.

Q. That is, as outlined in his telegram? A. Yes, sir.

BY THE COURT:

Q. What stand did Mr. Underwood take? What did he say about it? A. I remember him using the word that, "My God-given right, I as an individual will not accept it, and I won't tell you to accept it or reject it."

He didn't tell them to reject it; he didn't tell them to accept it, but he voiced his own God-given right opinion, as I get it, and that was left entirely up to the membership to accept or reject it.

Q. Was Homer Dawson there that night? A. Yes, sir.

Q. Did he vote to reject Mr. Maloney's order? A. The vote was unanimous, so he must have voted for it, because he was there.

Q. Well, did he vote? A. I must assume that he did, sir.

Q. If you have to assume, then we won't take it. How did [1209] you vote? A. I voted to reject it, sir.

By MR. FREEDMAN:

Q. Was the entire Executive Board present at that meeting, do you recall? A. Mr. Weidman—

Q. Let me ask you this: Was there a meeting of the Executive Board prior to that meeting? A. Oh, yes, sir.

Q. Did they vote on this proposal of Mr. Maloney's? A. They did.

Q. And how did they vote? A. Unanimously to reject it.

Q. Following that meeting do you recall a letter being sent out, do you have any knowledge of a letter being sent out, by Mr. McDonald to the contractors? I am asking you now whether or not you have any personal knowledge. If you don't have any personal knowledge— A. It is all hearsay pertaining to the letter, sir.

Q. Very well.

During that period of time or up to that time do you know whether there was any substantial unemployment among the membership as a result of the strike? A. There was no unemployment because of that strike, no [1210] more than the normal number of men that would normally complete a job, report into the hiring hall, and then for re-assignment to work. Other than that there was absolutely no unemployment among the members of Local 542.

Q. Were you in position to determine whether or not there was any unemployment at that time? A. I was, because I handled about 99 per cent of that business, sir.

Q. And were you patrolling the various jobs in your capacity as business agent? A. I was, sir.

Q. Now, are you able to say whether or not there was any unemployment among the other trades that you could see?

MR. O'BRIEN: Objected to.

MR. FREEDMAN: That is, the other building trades.

THE COURT: Overruled.

A. The other trades had difficulties in manning their own jobs, and employment increased for them because of our activities, if I may add, sir.

By MR. FREEDMAN:

Q. Let me ask you, was there any substantial unemployment among the other building trades in the entire area in the jurisdiction of your union. [1211] A. I didn't quite catch that.

Q. Let me rephrase it. Will you state, from your observation, you were patrolling this entire area—

What was your area? A. My area had been the entire State of Delaware, up to about the middle of April, including the bigger portion of Philadelphia County, Delaware County, Chester County, and parts of Montgomery County. I met the territory that was patrolled by Al Smith.

Q. Did you patrol your territory in your automobile? A. I did, sir.

Q. Did you visit the various jobs? A. I did, sir.

Q. And did you have an opportunity to observe whether there was any unemployment among the other trades? A. Yes, sir.

Q. Was there any unemployment of any substantial nature? A. No; no, sir.

Q. Was there sufficient work around on the jobs to take care of all the other trades, as well as the engineers?

MR. O'BRIEN: Objected to.

THE COURT: If he feels he can answer it, I will give him an opportunity to do it.

[1212] By MR. FREEDMAN:

Q. Can you answer that question, Mr. Leone?

A. There was ample work, and the number of other trades that were unemployed were very, very few, and they found employment in other construction jobs, wherever we had put pickets. Mostly we had watchers on these jobs.

In many of these jobs they continued to operate, and because of not having the use of the proper equipment or machinery, they employed additional men to continue the operation, the construction of the building, and so forth. For instance, the Lankenau Hospital, they had to build ramps and they had to employ additional laborers to wheel the materials for the continuation of the brick. The job continued. We had some subcontractors on the job in signed relationship with us that were doing the excavation for the other trades, like the electrical workers, and such as that.

Buckley had been the prime excavator, but he could do nothing else until the job had progressed to such a point as to do some landscape work and other work, but the subcontractors that had to do any excavation, like the Spring City Construction and the Pennsylvania outfit there, there were two contractors that were doing this excavation. The job progressed very well with the [1213] additional employment of other people to do the work in the place of a hoist.

Q. Now, Mr. Leone, did you know Mr. McDonald? A. I came to know him pretty well.

Q. Did you come into contact with him frequently? A. I did, yes, sir.

Q. Did Mr. McDonald assist in the preparation of the proposals for the union, that is, for the negotiations? A. He was at the Executive Board meetings. He was at the regular meetings where the discussions were taking place, which he questioned me from time to time as to the progress, how the things were going on, and which I kept him pretty much abreast of everything, and he was in full accord with our demands.

Q. Did he attend all of your executive and membership meetings or most of them? A. Most of them, except

when he was called out for other business, but the majority of cases, I would say he was there.

Q. Did he give his approval to the actions of the union all during this period until this meeting that you mentioned before, this last meeting? A. He gave his approval right along, because I remember distinctly at one time he had questioned me as to what was [1214] going on, and he said to me that he felt that the contractor associations should have broke. Now, this was just before Mr. Underwood and he had went to Washington to see Mr. Maloney.

Q. Let's just stick to our own personal knowledge. What I am trying to find out is whether you know that Mr. McDonald was familiar with what was going on and whether he gave his approval to everything that was going on. A. Oh, he did, sir, yes, sir.

Q. Following that meeting that you testified to before, that last meeting, I believe the general president issued an order terminating this strike. Do you recall that? A. Yes, sir.

Q. Now, was there any action taken in connection with that order by the Executive Board? Did the Executive Board hold a meeting? A. Oh, yes, sir, we did.

Q. And did they consider the general president's order terminating the strike? A. They did, sir. We had a meeting the following morning.

Q. What happened at that meeting? A. The following morning the Executive Board took up the business of this order terminating the strike.

Q. Tell us what happened, please. Who was there and what [1215] was said and done? A. There was only one man that I am certain wasn't there, and that was Mr. Weidman—he was the secretary—and that morning this order terminating the strike was taken, and Mr. Underwood read out the bill of complaint at this Executive Board meeting, and I remember there at this meeting that one brother there said to take up arms and shoot Mr. Maloney because he is no good.

Q. Mr. Leone, I show you the complaint entitled Civil

Action No. 14071, and I ask you to examine it and state whether or not that is substantially what was read by Mr. Underwood at that meeting. A. This is what was discussed at that meeting.

Q. The paper that Mr. Underwood was reading, was it carefully discussed among the membership of the Executive Committee?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

MR. FREEDMAN: I didn't hear Your Honor's ruling.

THE COURT: The objection was sustained. What he did himself is one thing, but for him to undertake to testify that a Board carefully considered something is going a little beyond me.

[1216] By MR. FREEDMAN:

Q. Was it discussed among the members? A. It was.

Q. Were questions asked? A. They were.

Q. How long did the meeting last, if you recall? A. A good hour. I know it was early in the morning because Mr. Underwood—

Q. Well, that is close enough. What did the Board do following the discussion that you mentioned before? A. They directed Mr. Underwood to sign—

Q. Keep your voice up, please. A. The Executive Board directed Mr. Underwood to sign the bill of complaint and to institute the legal proceedings.

Q. Did you subsequently attend the conferences in Judge Grim's chambers following the institution of that lawsuit? A. I did, sir.

Q. And do you recall the settlement which was effected as a result of Judge Grim's efforts, submitting the issues to arbitration? A. I do, sir.

Q. Did you attend the meeting at which the proposal was submitted to the membership for its approval. [1217]

A. Yes, sir.

Q. And the membership approved Judge Grim's proposal? A. The membership approved it. They wanted to put a—

Q. Please answer my question. A. They did, sir.

Q. They returned to work the following morning? A. They did, sir.

Q. And that was the day that supervision was invoked by Mr. Maloney again; is that correct? A. Yes, sir.

Q. Did you continue as business agent following the imposition of supervision? A. For a short time, sir.

Q. For how long a period? A. Until October 3, the day I resigned. That wasn't very long.

Q. Why did you resign?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. For several reasons that led up to it. The first was that af the Gulf Refinery, which was the custom of many, many jobs, that where there was a question of any long length of time going to and back and forth to their machines, that allowances were made for the membership to be paid for [1218] their traveling time back and forth, and this was one of the jobs at the Gulf Refinery that Local 542 had at the time. It was no uncommon thing; it was a general practice.

After the strike an International contractor went on the job, and he insisted on his men being on the machines ready to work before 8 o'clock, so when the other trades came in, that would be it, ready to go.

Mr. Wharton had called me and told me to go down there and put those men on those machines ready to go at 8 o'clock, and I told him all of the circumstances, and he promised to go down with me on the following Monday, and that I should go there and tell these men to be on their jobs. I went there and I waited for him the following Monday. He never showed up. When I reached him later on Monday, he told me that Reds Denoncour would be down there on Wednesday to take the matter up. Denoncour

didn't show up, and the men then were going in to work on those machines before 8 o'clock without pay.

Then the next incident was this contractor who was a notorious contractor. That was Felix Clauss. He had a terrible way of employing men and underpaying them, so that on two different occasions we had to compel Clauss to pay several thousand dollars in money that he had deprived of his employees, and he had been working at the tank [1219] farm, and he voluntarily shut his job down when the strike came along; and he wasn't a member of the association, he wasn't a member of the independents, he was just Clauss. So he resumed operations, and when I took the matter up with him, he wouldn't sign the contract. That was Mr. Clauss.

I took the matter up with Mr. Wharton. They asked Mr. Clauss to come into the office, which Clauss did, and when Clauss came into the office, all Mr. Wharton did to him was, "Here is the contract. Read it. Someday you may have to sign it."

And I had related to Mr. Wharton the type of contractor that this man was, and the only chance we had of holding him in line in fair competition was to get him to sign that agreement, because he had a fear of a signed agreement, but he let him off that way.

The next job was up at the Budd plant. There was a bridge crane up there, and the electricians were claiming the bridge crane, because of the jurisdictional dispute, so he asked me to drive him up to the bridge crane up at the Budd job up in North Philadelphia there, and while I was driving him up there he pointed out in his nice way that Mr. Underwood was going to be the goat of the issue and that I could continue as a business agent and that there [1220] was no action going to be taken against any of us, and we could go on enjoying, and we could really do pretty good for ourselves. That was what Mr. Wharton over there related to me traveling north on Broad Street. He also pointed out some facts about the B. T. A. A. Club. That is Mr. Wharton there.

Incidentally, at the same day that Mr. Clauss came into the office, Mr. Underwood was also in the office at that day when he allowed Mr. Clauss just to walk out like that.

The next thing was that Mr. Underwood and he—Mr. Underwood was just to be a figure in the negotiations before Dr. Taylor, and he wanted me to attend, but he was restricting Mr. Underwood, and that he was going to head the negotiating team, and he pointed out that I was a member of the negotiating team and should go to Dr. Taylor.

I refused to go to Dr. Taylor, and I told him why I refused to go before Dr. Taylor, because he wasn't in sympathy with the demands of the local union, and that he was insisting that we accept less than what the local union demanded. I told him so there in front of Mr. Underwood and Mr. Pantaleo, because Mr. Pantaleo hadn't decided yet whether he was going to attend the negotiating—but I am going off there.

[1221] That was one of the reasons that led up to this.

Another one was that on the day that I resigned, he had all of the contracts on the table in the office, and I asked him what he was going to do with all of those contracts that he had there. They were stacked, I would say, about a foot high and probably three wide, but I took it to be all of the contracts, because I went through them, and I saw some of the contracts, who had signed them, and I asked him what was the purpose of that.

He said, well, because Mr. Windisch and Manus McHugh were going to come in and look over the contracts, because they wouldn't grant us the fact that we had these number of contracts signed with the independent contractors.

I pointed out to Mr. Wharton that when I had bargained with some of these independent contractors, that they were agreeable to the terms and conditions, and that if the association found out that they were signers of the independent agreement, that they might be persecuted by

inspection, they might get persecuted by bond—there's many ways that the association might take measures against them—and that they urged me please not to divulge their names as having agreed to the independent agreements.

I pointed that out to Mr. Wharton. So he [1222] says, "What do you suggest we do?"

I says, "I am willing to carry all of those contracts myself to Dr. Taylor's office. Let him make the decision. Let him question the validity of the signers, the number of them. Don't let the employer association, don't let Mr. Windisch, come in here and take down the names of those people."

So one word led to another, and I says, "Well, this is it. I just had about as much as I could stand."

I gave him the keys and the card to the automobile, and Mr. Denoncour was there, because that day I quit he grabbed the keys to the car and the tickets.

Mr. Homer Dawson was there, and Mr. Pantaleo was there, and Mr. Wharton was there when I resigned; but there were many, many other instances too numerous to relate here, and I got a mental block that I can't think of them right now.

MR. O'BRIEN: I move that the last answer be stricken, sir.

THE COURT: Denied.

[1223] By MR. FREEDMAN:

Q. Now, during the period of the strike, Mr. Leone, do you remember whether any of the association contractors were signed up? A. Yes, sir.

Q. Did you sign any up yourself? A. Yes, sir.

Q. Did you see any of the others which were signed up? A I saw some of the others who were members of the association. I don't remember just now who they were.

By THE COURT:

Q. Those who were signed up who were members of

the association, did you strike their jobs when the strike was called? A. Yes, sir. If I understand you, sir, when they didn't sign up, we struck them, but then when they signed up the men went to work for them.

Q. Now, what is your answer?

THE COURT: Read the question, please.

(The reporter read the following question:)

"Q. Those who were signed up who were members of the association, did you strike their jobs when the strike was called?"

[1224] A. We didn't strike any contractors that were signed up with us.

* * * * * * * * *

Q. Mr. Leone, after supervision was imposed, how soon did you have occasion to go into the office? A. I was in the office, I went to the office the day of the imposition of supervision. That was—

Q. The same day that it was invoked. Now, whom did you see there? What time did you get there? A. Oh, it was somewhere around the noon hour—it could have been before or afterwards.

Q. Well, now, you tell us what you saw and what happened when you got there? A. Well, I went into the office, the office that is at the end of the Broad Street side of the building, and as I went in, Mr. Wharton was at the table —at the desk in one of the offices, and beside him was Jack Carter and Pete Weber, later Smith, Duffy, and I don't remember who else was there, and there were three or four other men in the outer office, just as you come in through the little door.

[1225] As I opened the door and went in, one of them reached for—and I saw the pistol or gun, he reached the gun and half drew the gun out. The other one made an attempt, saw it was me, and he stopped, and the other one stopped, but I wasn't in there—oh, I just opened the door and I looked around, seen who it was, and when I saw that, I just backed out and pulled the door right closed. I didn't

even take my hand off of the knob other than I just looked in—

Q. Did you see the gun? A. Yes, sir, I did, sir.

Q. Now, Mr. Leone, did you attend the hearing in Washington during August in connection with the imposition of supervision? A. Yes, sir, I did.

Q. Do you remember who was there? A. Yes, sir. I do.

Q. Tell us where it was held and who was in attendance, please? A. Well, it was a dirty dusty room—

Q. Tell us, was it in the office of the Union? A. It was in the International offices, it was supposed to be.

Q. Who was in attendance? |1226| A. Mr. Carter sat at the head of the table, and he said he had been appointed or deputized as the hearing officer, and he was—

Q. Keep your voice up. A. —that he had been deputized by Mr. Maloney to sit as the hearing officer.

Mr. Thomas had said that we had arrived late and that Mr. Maloney was a very busy man, had other businesses, and that he couldn't stay here and left.

And with that he had a tablet and he was writing down—

Q. Before you get to that, who else was in attendance? You say Mr. Carter was there. Was he the presiding officer? A. Yes, he was the hearing officer.

Q. And Mr. Thomas, the general counsel, was there? A. He was there.

Q. Was there anybody else there for the International? A. No, sir, only those two I saw there.

Q. Now, who else attended? A. Mr. Underwood, myself, with all of the other business agents, except Mr. Rudden wasn't there, and I remember James Russell, I remember Colombo Acchione, and I remember Mike Concordia, plus the business agents. Of course, Mr. |1227| Lavery's wife didn't come there—he had brought her down, and she went visiting during the day.

Q. Now, you tell us what happened there, please. A.

Mr. Thomas had a tablet and he was making notes there as he asked Mr. Underwood about three or four questions as to how much money was paid to the Maritime Trades for their picketing and did he sign the bill of complaint, and "You stand there without a word of apology," and he was writing down there hurriedly.

About after three or four questions Mr. Underwood refused to answer any more questions because he had asked Mr. Thomas for a stenographer to take down the notes of the questions and answers here, and Mr. Thomas refused that.

Q. Did Mr. Underwood make any other demand for anything else beside stenographic service? A. If I remember correctly, he told Mr. Thomas that he was a lawyer and that Mr. Underwood wasn't—he had said that he wasn't given an equal opportunity to defend himself against Mr. Thomas, or words to that effect, and Mr. Thomas went on writing on that pad of his and chewing his gum, and Mr. Underwood just refused to answer questions.

He asked him three or four more questions, and Mr. Underwood just refused to answer any questions if a [1228] stenographer didn't come in here and take these notes.

Then he stopped questioning Mr. Underwood and then he wanted to know who was that business agent, and it came out that the business agent he was referring to was Mr. Pantaleo, and the incident revolved around another International contractor that wanted more favorable terms and conditions than we had in the area, and the incident was that the contractor told Mr. Pantaleo that he had got his O. K. from Mr. Hill, and Mr. Pantaleo had said, well, Mr. Hill is not his boss, but he had used another word in describing Hill, and he said Mr. Underwood was his boss, and that is the agreement.

So Mr. Thomas wanted all of that down. And then he says, "Who is that other fellow?" And I don't know how he

singled out Jimmie Russell, about something that happened up at the steel plant. I remember the incident. But anyhow it was there, and I asked him if he was a member of the Union, and he said, yes, and he went to show me his card that he was a member of the Union. And I asked him if he was a lawyer, and he said yes. I said, "Well, that is a very convenient arrangement." I says—that was it. I said that.

Q. Did your group ask for a lawyer? A. Mr. Underwood said something about the lawyer. I [1229] just don't remember what the exact wording of Mr. Underwood was, but he referred to something about a lawyer.

Q. All right. Go ahead. A. Well, that is about all.

Q. Were there any charges at that time preferred by Mr. Carter or Mr. Thomas? A. Nothing that I remember, I am pretty sure—I am certain that all Carter said was, he is the hearing officer, and Mr. Thomas took his pad and started to write down and ask questions of Mr. Underwood. That is all. But nothing else was said or read, or anything. All he asked was, "Mr. Underwood, did you sign that bill? How much money did you give the pickets?" And a couple of other questions, but nothing as far as accusing Mr. Underwood of any guilt or anything or of putting any charge or anything like that that I remember was said.

Q. I mean charges against the Union itself. Were there any charges read off and the Union asked to defend against them? That is what I had in mind. Well, you have given us what was said and we can draw our conclusions, so I won't press that.

Did you attend the hearing in New York on charges against Mr. Underwood? A. Yes, sir, at the Executive Board yes, sir.

[1230] Q. The General Executive Board? A. The General Executive Board.

Q. Where was that hearing held? A. In the Commodore Hotel in New York, at the same time that the A. F. of L. was having their session there.

Q. Do you remember about when it was? Was that

about September 19, 1952? A. It was sometime around the middle of September of '52, that is right.

Q. Now, did you attend that hearing? A. Yes, sir, I did.

Q. Did you see Mr. Halloran there on that day? A. Yes, sir.

Q. Where did you see him and under what circumstances? A. He was talking to Mr. Carter, and I saw him after the session of Mr. Underwood and the Executive Board. It was when I was coming out, I saw Mr. Carter and Mr. Halloran, and that was on my way as I was coming out of the meeting.

Q. All right. Tell us what happened in that hearing, please? A. As I walked into the room, the vice-presidents were sitting lined up facing a table, with their backs to the wall, and Mr. Maloney had gave the chair to Mr. Delaney, [1231] and he retreated to my left, let's say, to the left of the room. Mr. Thomas was over to the right. I saw Mr. William Carter was seated in front of me, plus ourselves. There were about 35, I would say, members of the International Union of Operating Engineers from the various areas of the country who were there.

Q. This was a hearing before the General Executive Board? A. Before the General Executive Board.

Q. And was Mr. McDonald seated among the General Executive Board? A. He was there. He was to the right of Delaney.

Q. They were going to be the judges? A. They were the judges, sir, yes, sir.

Q. Go ahead. Tell us what happened. A. Mr. Delaney was presiding, and he opened the meeting with hearing the case of Mr. Underwood. Mr. Thomas started to speak then after that, and he had a bundle of papers in his hands, and he went on reading, and he read from this paper and he talked to the Executive Board, to everybody there, and the statements that were made in this—

Q. Do you remember substantially what he stated?

A. Pretty much. It was scurrilous, and that these derogatory statements that were made here, and that Mr. [1232] Underwood was guilty because he had signed the complaint, and that the Executive Board had no alternative other than to find Mr. Underwood guilty because he had signed this paper which had been circulated throughout the country and brought ill-repute upon the International and its officers and Mr. Maloney. That is the way he went on reading from these papers. And he would stop at different times to put emphasis to a certain phase there. I don't remember quite everything that he said just now, but he talked, I would say, for about 20 or 25 minutes from all of this stuff, from these papers and what he added to the statements.

Q. Did Mr. Underwood ask for an attorney at that meeting? A. Well, Mr. Underwood, when he spoke, Mr. Underwood asked for that—

Q. When you say "he," who do you mean? A. Well, when Mr. Thomas got up there and spoke and made all his statements and reading from all these papers here, Mr. Underwood then asked for counsel because he din't think that Mr. Thomas—

Q. Well, he asked for counsel. Did he ask for anything else? A. Oh, yes. He asked for a stenographer for a recording [1233] of the minutes, and he asked for counsel there in view of the fact that Mr. Thomas was an attorney here, and Mr. Delaney said that he was purely here as a witness, not in the capacity of a lawyer. But Mr. Underwood had took the point and insisted that he should have counsel because of the statements that had been made there by Mr. Thomas.

Q. Well, was Mr. Underwood's request for an attorney granted? A. No, that was denied.

Q. Was his request for a stenographer granted? A. That was denied.

Q. Now, following Mr. Thomas' presentation, who spoke or what happened? A. Mr. Underwood then spoke.

and he answered the charges as had been made to him there. After completing that, he still took the position that he should be granted counsel and requested again the granting of counsel.

Mr. Delaney says, "No, no, we won't admit any lawyers here."

Q. Do you remember what Mr. Underwood said? You say he spoke. Do you remember what he said? Was he reading from anything or was he saying anything— [1234] A. Well, he was reading from some notes that he had made. I don't remember just what he said because at that point I was concentrating on how I could speak for Mr. Underwood before that—how I could soften my words.

Q. How long did Mr. Underwood speak, do you remember, if you remember? A. It didn't seem long, maybe five minutes, seven minutes, something like that. It didn't seem very long to me, not as long as Mr. Thomas there.

Q. Now, who spoke following Mr. Underwood? A. I did, I believe.

Q. And what did you say? A. I said that from all indications here I felt that if a proper report had been made to Mr. Maloney, that Mr. Maloney would not have taken the action that he did. And I went on to relate the number of contractors that we had in signed relationship, the number of members that were working, that the number of persons that were unemployed were little, of no account, and that if the true facts had been related to him by Mr. Carter that he wouldn't have taken this action in interfering with the negotiations of Local 542. And I took the position [1235] that our demands were just, that these demands were set up because the membership had received the magazines and letters from the General Office urging the safety working conditions, and that we should get every amount of money that we are entitled to, and facts like that I related, and I also said that a great injustice was being imposed upon Mr. Underwood, that he was being made to bear the entire brunt of the effects, that there was no guilt,

and that if guilt was there, he is certainly not alone because whatever had been done was done with the full knowledge and consent of the Executive Board and the entire membership of Local 542.

I pointed out that this was a nasty situation, that whoever was at fault, that the matter should be solved here in this chamber before this Executive Board.

That is the way I concluded my statement.

Q. Now, who followed you? A. After me I believe Mr. Colombo spoke.

Q. Will you tell us substantially who spoke after you and generally what was said? A. Well, Mr. Colombo spoke following me, and his words were to the effect like a character witness on Mr. [1236] Underwood's past, because Mr. Colombo knows Mr. Underwood for many, many years.

Q. You mean Colombo Acchione? A. Colombo Acchione. And Mr. Concordia spoke, and his was that it was unfair because the International Union, up to the very last meeting, had told the membership they were supporting our demands and strike to the limit, and then just like that comes this action, and there is certainly something wrong and uncalled for.

So at this point Mr. McDonald took issue, because Mr. McDonald says that at the last meeting he didn't say that the International was up to the last meeting behind us.

Q. What meeting was he talking about? A. There was a meeting that he spoke to accept the president's request and did not—

Q. Was that the meeting that you testified to before in connection with the vote on the president's telegram? A. Yes, yes.

Q. Now, go ahead. A. Mr. McDonald wanted to clear that point, that it was not up to the last meeting, that he took issue with Concordia on that.

[1237] After that Mr. Maloney spoke, and he opened up with saying, "I am here being called a strikebreaker." And he went on to relate the experiences and that he tried

to bring Mr. Underwood and Halloran together and that he couldn't bring them together, and that is about the sum and substance of the testimony.

* * * * * * * * *

Q. Since supervision was invoked in August of 1952 have conditions in the Local Union changed?

MR. O'BRIEN: That is objected to, sir.

[1238] THE COURT: I will permit it. Overruled.

A. They did, sir.

By MR. FREEDMAN:

Q. Will you tell us in what respect, please?

MR. O'BRIEN: That is objected to, sir.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Please confine your answer to your own personal knowledge, Mr. Leone. A. For instance, the job on the West Chester Pike, that was constructed by the Keeler Construction Company, on that job, it is only about five or six minutes by trolley car outside of 69th Street at Eagle Road it started—Keeler went to work there with a privileged contract, that the men were employed—

Q. What do you mean by a privileged contract? A. Well, it was not a contract that was supposedly to be the contract that we had. At the meeting we were told that we have a 40-hour guarantee in the five-county area, and on this contract the men were employed on the two, four, and eight hourly basis.

Q. Explain what you mean by the two, four, and eight, please? A. Well, if a man reported for work and he wasn't [1239] started work, he would get two hours for reporting time. If he started work, he was to receive four hours' time. If he started work after the lunch period, then he would get the eight-hour day. And all of the other conditions, the 40-hour guarantee, or whatever they may be, were all gone.

So that the engineers that were employed there were employed on the two, four, and eight.

When this was taken up on the floor, they denied it at first. Then subsequently they brought about the answers, because the complaints came in, the questions were being asked, so that they said, because of District 50 coming in with their members and taking over the territory, and such as that, that they were compelled to give these conditions to these employers on those bases, at two, four and eight. So that these men would employ the members of Local 542 and give our people work.

Well, that wasn't the only job. On the floor it was impossible to get answers to any questions that were put. For instance, always in any meeting that I attended there was a limited number of men, that the minute I tried to speak on the floor it was, "Sit down, you bum, sit down, sit down," this and that. They called [1240] me everything from one to the other. I include every imaginable word that has been conceived I have been called on that floor to the point that they came to me with a knife also, and I was surrounded a couple of times by five or six men who were ex-convicts, prize fighters. At one occasion—they have a nice way of doing it—at one occasion there is a fighter, Wolgast, he is a little small fellow, but I don't believe he is all there. He is mentally ill, because he came up to me at one of the meetings and put his hand out and grabbed my hand to shake my hand, but in a low tone so that nobody would hear him, he called me and made such derogatory statements which I took it to be that he was trying to antagonize me or that I might swing or hit, or something, where they could pounce on me. However, I managed to control myself. But while he was shaking my hand, in a whisper he was telling me these derogatory remarks, and they would holler, "Sit down, sit down, yeh, sit down, you bum," and then quietly he would make these other statements.

At almost every meeting—at several of the meetings I just took the position that I had the floor. I refused to yield the floor, and I took the position that I should be

heard because it was to the [1241] benefit of all. It wasn't a personal thing that I wanted to talk about.

When I tried to bring to the attention of Mr. Lavery and to the membership of the Local Union about a secret meeting that he had in a hotel room in Scranton at the Casey Hotel, why, that meeting—I took the position that I should be heard, that I wanted to ask them, they denied it, I shouted that they have the two, four, and eight arrangement, and that they are trying to enter into agreements without making us aware of the terms and conditions, I couldn't say that on the floor. Four or five of them at that meeting came around. And it was only because of the intervention of other members that they just wouldn't attack me. But they certainly made their attempts to attack me on the floor.

But it wasn't only that job. The Langanfelter job on the Turnpike, the men were working under the 40-hour agreement. And on that job Mr. Lavery and George Gaul went to it, and Charles Denoncour was the master mechanic, he assembled the men, and they were told that henceforth they would be working under the terms of a two, four, eight, agreement.

When one of the brothers said, "That is a raw deal," Mr. Denoncour answered him that he couldn't [1242] eat his union book. That was brought out on the floor, the man that was told he couldn't eat his book, he brought it out on the floor, he accused Denoncour, he accused Lavery and Gaul on the floor, but always these goons are always attempting to intimidate or strike anyone that dares to voice any of it that is going on that he tries to bring it to the attention at the meetings.

Q. Is there any group that acts in connection with these meetings? A. Oh, yes, there is a little group, and there is no—

Q. Keep your voice up. A. The group, it is general knowledge, for instance, Mr. Piscatelli, has his little group, and Pantaleo has his little group.

Q. I am talking at the meetings, is there any group that acts at these meetings? A. Oh, yes, there are, like the members that shout me down, like there is Frank DiDonato, DiPetro—

Q. Go ahead. How many in the group all together? A. Oh, there are probably about 20 or 25, something like that.

Q. Are they the same ones who participate in these actions that you have described, in these meetings? A. Oh, yes.

[1242a] MR. O'BRIEN: Let's be more specific.

MR. FREEDMAN: I thought we were specific.

THE COURT: I think you better withdraw that question and reframe it.

MR. FREEDMAN: I will withdraw it.

[1243] By MR. FREEDMAN:

Q. You have testified, Mr. Leone, about certain people engaging in certain activities and certain language. Can you identify these people? Do they constitute a specific group who act generally the same way at all meetings? A. Yes, sir, I can.

Q. Will you tell us who they are, as closely as you remember, and how they act, please. A. Frank Lentino.

Q. Who was Frank Lentino? A. Frank Lentino is a member of the local union.

Q. Is he in the room here? A. Yes, sir, he is here.

Q. Will you point him out, please.

Mr. Lentino, will you stand up.

(A man in the court room arose.)

Is that he?

A. That is Mr. Lentino, yes, sir. He is one that has attempted to discredit me by making derogatory remarks, dilatory statements.

DiPietro has shouted meeting after meeting to sit down.

Willie Jackson is another man that has shouted, "Sit down, you bum," and made these statements on the floor.

[1244] Wolgast—

Q. Is that his right name or does he have another name? A. His name, I believe, is Christaldi, I think. I don't know his first name. I think his name is Christaldi. I heard him say that in Court.

Q. All right, who else is in this group? A. Tony Zirpoli, and there is Lentino's half brothers or stepbrothers. One of them is Charlie, a former bartender. He is the one that came at me with a knife.

Oh, right now I don't remember them.

Q. There are others, though? A. There are many others.

Q. What does this group do at these meetings, generally, what you know from your own knowledge, of course. First let me ask you, are they in any particular part of the room? A. Oh, they are around the outer edges, and they walk up and down the aisle and around the outer side of the walls, and wherever anyone gets up to talk, well, they shift and congregate around him and try to silence him. They will tell him to sit down and make statements to him, but the Chair has never at any of these meetings attempted to correct these practices. He has never once called them down. For instance, at a couple of meetings where I insisted on being heard, they were grouped around me, threatened me, "Now, you heard it. [1245] Sit down. Nobody wants to talk to you."

Q. Who said that? A. That is Mr. Lavery.

Q. He was presiding at the time? A. He was presiding. At numerous times I told him, because of him, that he is responsible, that he is the collaborator with Mr. Wharton denying us our terms and conditions of employment and subjecting us to work for under the scale and not enforcing the contract.

He, at a motion on the floor, increased the membership dues, where the motion was rejected, but he said, "The ayes have it," and if I asked for a division, that was denied. He said, "The ayes have it," and the dues were

increased to put on additional business agents, yet right today—I questioned Mr. Rudden in the day room—there was over 600 men unemployed that he has there in this area, and he has estimated an additional 600 unemployed in the other areas, which makes a total of 1200 members of Local 542, by Mr. Rudden, that are unemployed; and also from his work sheets, I counted them, in our local area, yet he takes the position, and now they have 11 or 12, I don't know whether—there is another man, I don't know whether he is on the payroll or not, but there are 11 that are employed now, and yet I have went out on the street, for instance, at the Pennsylvania Building, [1246] Murphy Quigley working in there, there was a house car running during the day, and a laborer operating it, and also that they brought in the compressor into the building. They had breakers running in the upper floor, with a laborer operating the house car. I know that that job has been running for five days.

We reported it to the office. Mr. Piscatelli goes there and settles the complaint for two days pay, which Mr. Rudden called me and asked me what I wanted to do about it. I said, "Give it to some old man that is in need," because I have seen over a hundred of these old men who are limited in their ability to operate. I said, "Give it to one of those men," but it was 15 days pay settled for two days.

Also I went to other jobs and seen where there was, for instance, Laub at the filtering plant, I went to that job. There was a mechanic on the job running welding machines, running compressors. The compressor man that had been there had been laid off. They had put some young boy on the crane. He upset the crane, so the mechanic is running the compressors, welding machines, and repairing the crane, and yet they want to fire him because they are blaming him. They want another mechanic because they feel that he is keeping the machines broke down, when the machines are running haphazardly.

I reported this to the office, but there is [1247]

additional business agents been put on, an increase in dues, yet our people walk the streets unemployed, while the employers employ men on lesser scale, lower rate of pay, to do our work.

Q. Have you suffered any unemployment personally since supervision has been invoked? A. I have.

Q. Tell us about that, please. A. After I quit the B.A.'s job—

Q. When you say B.A., you mean business agent? A. I was a business agent. I went to work for Joseph Lombardi. Pantaleo had came on that job at least, I would say, an average of twice a week.

Q. Pantaleo is still a business agent? A. Pantaleo is still a business agent. He brought with him his, what do you call them, his bouncers or—

Q. Just tell us whom he brought. A. But he came there, and he takes the position of making over-demands of the employer than what was in the contract, and which Joe De Rose, a man on the job at that time, says to me, "The reason he is coming here is because we have you working here."

He has came there—on one occasion I was operating the compressor and another fellow that had been [1248] running the crane, another young boy that had been running the crane, he fell and hurt his knee at noontime, so he went to the hospital, and the next day he couldn't run the crane. So I said, "You run the compressor; I will run the crane for you. We won't tell the boss or make any change of money or anything like that. I will get my compressor scale and you get the crane rate. I will run the crane for you."

A teamster on the job, which he later gave a book to, that was carrying—everything that went on on the job was reported to him, so he came on the job the next day—

Q. Who do you mean by "he"? A. Pantaleo, and he flipped a cigarette into the face of this boy that was operating the compressor for me, and he tried to goad the

boy in a way—he is a small boy, weighs about 110 pounds, harmless, and flipping the cigarette, he made some derogatory statement to the boy, that the boy came to me, about 600 feet away, and he was crying when he come to me and told me what Pantaleo had said to him and how he had insulted him, and he says, "I don't know why he is doing these things, why he said to me, why he threw the cigarette in my face."

I went to Pantaleo and I told him, "I don't know why, but what did that little boy—if you want to get me fired so bad or if you have any personal point to take with [1249] me, well, take it with me."

Mr. Pantaleo didn't answer.

The entire job, there were bricklayers building a manhole. There were laborers there. He just stayed there. He just stayed there. He got in his car and drove away.

He returned time and time again bringing other agents, because at one time he brought the laborers agent up there, and the laborers agent, I don't remember his name, but he told me that he had no bone to pick on the job. He told it to me and to Mr. De Rose, but it was at the insistence of Pantaleo that he called, that his boss told him to come out on the job, and what was it that Mr. Colombo Acchione's relatives, they are stone masons, were working as laborers. They had just got everybody working as laborers on the job, that he brought the laborers' B. A. to cause trouble.

It finally resolved that January 28, that was the end of me. I subsequently found another job.

Q. Of what year, January 28 of what year? A. Of 1955. January 28 of 1955 was the end of the employment with Mr. Lombardi. I put myself on the out-of-work list in the day room. I never got a call. I found myself another job with another contractor, and the man was giving me work, but the conditions that I saw of the other contractors, the [1250] way they were working, and having been a business agent, if I take the position and insist that the

contractor that I was working for at the time live up to the contract, I would cause him to lose money or drive him out of business. I didn't have any choice other than to work under substandard conditions or quit.

I quit. I got another job. That lasted only about a week, for Jim Armour, working down here. I was running a shovel, loading some ore that had been dumped on a car. Well, that job completed because that was the end of it. That was only the length of it.

After that I had been in the day room. So the next thing, so that my time wouldn't be a complete loss, I started to build myself a home. I kept on the unemployment list, and I have been working myself and I have been employing myself by borrowing money to build myself a home so that I could move into it and maybe not have a complete loss.

Q. How long is it since you have been unemployed? A. The last job was in July of 1955. Mr. Rudden the other day offered me a two-day job, and if they knew about it, they would fire Mr. Rudden. He offered me a two-day job out here in Conshohocken, and if they knew that he had offered me that two-day job, they would fire him.

Q. Now, Mr. Leone, have you spoken to many men during this |1251| period of supervision since August of 1952? Have you spoken to many members of Local 542 regarding supervision and regarding these lawsuits? A. Oh, yes, I have, sir.

* * * * * * *

By MR. FREEDMAN:

Q. I might ask you one more question before I conclude my offer: Mr. Leone, are you able to state how many members you have spoken to during this period since August of 1952?

MR. O'BRIEN: Objected to.

THE COURT: I will overrule the objection to that.

A. Not an exact number.

By MR. FREEDMAN:

Q. Just as closely as you can estimate. A. I would say around a thousand.

[1252] MR. FREEDMAN: Now, my offer of proof goes to that, sir.

MR. O'BRIEN: The offer is objected to, sir.

THE COURT: And the objection is sustained.

* * * * * * *

[1253] ROBERT WALSH, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. How old are you Mr. Walsh? A. 31.

Q. Where do you live? A. 4915 Pulaski Avenue, Philadelphia.

Q. Are you married? A. Yes.

Q. Do you have any children? A. Three.

Q. What is your occupation? A. Engineer.

Q. Operating engineer? A. Operating engineer.

Q. How long have you been following that trade? A. I started as an apprentice in 1942.

Q. Will you trace your work record, please, from 1942 to the present time?

* * * * * * *

[1254] A. I started in 1942 at Pitcairn as an apprentice on permit, and I worked on I think four jobs until I went in the Army in 1943.

Q. What kind of jobs did you work on? A. Pitcairn was an air base.

Q. Whereabouts? A. At Willow Grove, the Naval warehouses, Naval Aviation warehouse at Sears Roebuck.

Q. Will you tell us what you did on those jobs, please? A. On all those jobs I oiled on cranes or back hoe or shovel.

Q. You actually operated the— A. No, I oiled. I was an apprentice then.

Q. Go ahead. A. And then I went to the air base at

New Castle, Delaware. When I finished that job I went to Patterson Avenue, I believe, on that housing project that they just tore down lately when they were building that.

Q. Keep your voice up, please. You oiled on that job too? A. That's right.

Q. What other job? [1255] A. That was the last job I worked on until I went in the Army.

Q. When was that? A. 1943.

Q. How long did you stay in the Army? A. I came out in the early part of 1946.

Q. What part of the Army were you in? A. Infantry, Army.

Q. Did you see any active service A. Yes.

Q. Where? A. Europe.

Q. When you came out, did you go back to the same occupation? A. I tried to, when I first came out, and had quite a hard time. Jasper White, the assistant supervisor, give me a bad time, and at one point he told me that he couldn't be worried about the veterans in this country, he had enough troubles of his own, but I eventually did get my book.

* * * * * * *

[1258] Q. Do you recall the conditions during supervision before it was lifted in 1948? A. Well, at that time I was a young boy, and I, like everybody else, I kept my mouth shut. I wanted to work. You just minded your own business if you wanted to work.

MR. O'BRIEN: I move that that be stricken, sir.

THE COURT: It may be stricken.

By MR. FREEDMAN:

Q. After 1948, when local autonomy was obtained, were you appointed or were you elected to any job in the union? A. I was elected as conductor.

[1259] Q. As conductor? A. Yes.

Q. What is a conductor? A. Well, to check the pass word, assist the sergeant at arms checking books when they come in; see that the men belong, and any other duties the president or business manager directs you to do.

Q. Did you become a member of the Executive Board? A. When I was elected conductor, I did.

Q. Did that autocatically make you a member of the Executive Board as conductor? A. That's right.

Q. Did you attend all of the meetings of the Executive Board or most of them? A. I would say every one. I don't ever remember missing one.

Q. How about membership meetings? A. The same. I never missed a membership meeting.

Q. How were the membership meetings conducted? Were they orderly? Were the members given an opportunity to discuss— A. Everybody had a chance to get up and say whether they were against the administration or for it. Everybody had an opportunity to get up and speak and say what they wanted to, and I think everybody exercised that part in the meetings.

[1260] Q. What about that Executive Board? Did it act independently or did it not? How were those meetings conducted? A. In the same manner. Everybody got up and spoke on things that came up, asked questions, and everything was brought out very clear to them.

* * * * * * *

[1262] Q. How long did you work at the Fairless plant? A. I believe 20 months.

Q. Until when? A. Well, I think in 1952. It was right after supervision was imposed.

Q. What has been your work record since that time? A. After I left Morrisville I came into the hall, and I was told by Rudden that Conduit needed a man, but I would have to go to their yard to try out on the crane first. So [1263] it didn't bother me, I went up there, and Pete Bozzelli, the master mechanic, said I was all right, sent me out on a job on the Freeway, where they were building a freeway at the time, and I worked out there three days, but conditions were terrible. I called in twice myself, and the oiler, I think, I had sent him up three different times. He called in.

Q. Why did you tell him to call in? What were the

conditions? A. Well, nobody was on the compressors at all. Pumps were running with nobody on them, and one operator there was running two different cranes. He would shut one down, run one, go back to the other one, make seven or eight changes a day that way, and he was also starting the pumps and the compressors.

[1264] Q. What did the union contract require? A. It requires a man for each piece of equipment.

Q. Go ahead. A. So finally, Pete Pantaleo, the business agent, did come out, I think on the third day, about three o'clock in the afternoon. Just before he came there, I saw about, if I can recall, three men come running up the road. One wanted to know how to start the compressor or shut it off. I wanted to know who he was. He said he was a laborer up the yard, they sent him down to cover the compressor. I wouldn't show him anything. So another man went over to the pumps and stood around. This crane operator shut the one crane down and closed it up, went on a truck crane, which was further down the road. Pete came there and said, "Well, what can I do?"

Q. By Pete you mean— A. Pete Pantaleo, the business agent. He said, "Everything looks all right to me. Everything is covered. I can't do anything about the guy being a laborer, if they want to get him a book."

I knew then that somebody had called to tell him that he is coming on the job, so I just quit, I didn't want any parts of it.

Q. Who owns the Conduit Foundation? [1265] A. Harry Halloran.

* * * * * * *

[1269] Q. All right. Now, let's go back to 1949. You said that you were an organizer in 1949. What part of the territory were you assigned to? A. Well, when I first went on there were only two of us on at that time. Denoncour was on taking care of it, and I was to go along with him and find out the territory and to go around actually and try to talk to the men that were on the jobs,

Q. What territory was it? A. We started at Morgantown, I believe.

Q. Was that the Turnpike job? [1270] A. The Turnpike, yes, all the way to Carlisle. And we worked our way up, and my job primarily was to talk to the men.

Q. Now, did you cover the area where Local 66 out of Pittsburgh had been coming in? A. Yes, I did.

Q. Do you know anything about those circumstances? A. Well, I think I talked to just about every man on the Harrison job, Patterson job—

Q. Well, now, what experience did you have in organizing those Turnpike jobs where Local 66 men were involved? Tell us about those experiences, please. A. Well, when we first went on the jobs, get the men, talk to them, they were all from 66, or the biggest percentage of them were, some from 917, but they were steady employees of Harrison, and they said that they were told to come in there, that it was open territory, they didn't know anything different in checking into 542.

So we talked to them, and then they would put the job on strike. The first day I think they all came off. Then they started going on back in. This master mechanic, I think his name was Franklin—

Q. Who put the job on strike, the union? [1271] A. 542.

Q. Go ahead. That was 542 territory? A. That is right.

Q. Go ahead. A. And this "Whitey" Franklin got talking to the men.

Q. Who was "Whitey Franklin"? A. He was the master mechanic for Harrison.

Q. Go ahead. A. From what I could get out of the men they were told that Pittsburgh was going to take over this territory, and they were going to go back to work, they were told to go back to work. Well, they did, and we had quite a time with them.

Q. Did they go through the picket line? A. Yes,

they did. Finally, oh, it must have been months—I can't say whether it was one month or two months, but it was a long time before John McDonald, the third vice-president, finally—I believe it was his efforts that got Wharton to come on the job and try to pick out his men and get them off the job. What he said to those men there that day made me sick, because when they—

Q. Well, did you hear it? A. Yes, I did.

Q. What did he say?

* * * * * * *

[1273] A. Well, he said that if he was—the men told him that they had been—somebody had said something to them when they went through the picket line, and he said, "If anybody had said that to me, I would go through the picket line too," and that was pretty shocking to hear it from a union representative.

By MR. FREEDMAN:

Q. Did he pull the men off the jobs after that conference at that time? A. He left them on there. He just told them to come off, but they didn't come off.

Q. They remained on the job? A. That's right.

Q. For how long a period of time did they remain on the [1274] job? A. Well, I would say—it is hard to judge a time. I would say maybe two months, maybe longer than that.

Q. Did you and the other men, so far as you know, make any protest about his failure to get his men off the job? A. I know myself and Denoncour talked to Underwood about it and McDonald.

Q. Did you talk to Mr. McDonald about it? A. I am pretty sure McDonald made a protest to the general president about it, from the reports I heard at meetings and things.

Q. You were a member of the Eexcutive Board? A. That's right.

Q. The Local Executive Board, that is. Did you attend the meetings? A. Yes, I did.

Q. Did Mr. McDonald attend those meetings? A. Yes, he did.

Q. Did he participate in the discussions and the affairs of the local? A. Yes.

Q. Now, do you recall the time when the injunction which had been handed down by the Common Pleas Court here in Philadelphia was coming to an end, toward May of 1952? Do [1275] you recall the negotiations which were undertaken by the local at that time? A. I recall the reports at the Executive Board that they were negotiating.

Q. Do you recall the demands which were proposed by the local at that time? A. Yes, I think I do.

Q. Were they considered by the Board? A. Yes, they were.

Q. Was Mr. McDonald present at that time? A. Oh, yes.

Q. Did he participate in the discussions regarding those demands? A. Yes, he thought they were very good, and he was kind of proud of a lot of them himself.

Q. Did he state whether the International was informed about the activities of the local? A. Yes, he did.

Q. Was it reported to your Board that an agreement had been effected with the independent contractors? A. Yes, sir.

Q. You didn't participate in those negotiations, did you? A. No, I didn't.

Q. Was it also reported to the Board that no agreement was [1276] reached by May 1 of 1952 with the association contractors? A. Oh, yes.

Q. What happened after May 1 of 1952 so far as the association contractors were concerned? A. We went on strike.

Q. Was there any unemployment among your membership as a result of that strike during the period of that strike? A. Anybody that wanted to work could have worked.

Q. Will you explain how that situation existed, please.

A. Well, I think there was, oh, pretty near 500 contractors signed up under the independents, and they employed darn near all the men. In fact, we had a lot of out-of-town men working in the territory because we couldn't get men to man the jobs.

Q. Do you know whether there was any unemployment, any substantial unemployment, among the other trades during that period?

MR. O'BRIEN: Objected to.

THE COURT: I will sustain the objection.

By MR. FREEDMAN:

Q. Do you know what the conditions were among the other trades at that time? A. Yes.

Q. During the period of the strike. When I say at that [1277] time, I mean from May 1 on.

THE COURT: If you are going to question this man, I want a full expose of how he knows.

MR. FREEDMAN: I was just coming to that, sir.

By MR. FRREDMAN:

Q. Now, from your own personal knowledge, Mr. Walsh, were you able to observe what the situation was with respect to the other trades? A. On my particular job I would say yes.

Q. What was your job? A. I was at Morrisville at that time, and I would say the ironworkers came out of Trenton, and I would say all but three men on the job were —I would say there was twenty men there and all but three of those were from Philadelphia, working in Trenton territory, and the pipe fitters came out of Philadelphia, and I would say 98 per cent of them were from down South or all over the country.

Q. Have you any idea how many men were employed on that job? A. On the particular job I was on at Morrisville? I would say three or four hundred anyway, all told.

THE COURT: Are you talking about during the term of the strike?

MR. FREEDMAN: During the term of the strike, [1278] yes, sir.

By THE COURT:

Q. How do you know that there were or were not 6500 people out of work as a result of the strike on jobs that were struck? A. Because if there were any men out of work out of Philadelphia in the other trades, they would have come to Morrisville and worked, because that is the general practice of any craft that has men out of work or out-of-town men working. They take those men off and put their own men to work first.

Q. You know from custom, then, not from personal observation; is that it? A. Well, that is more or less it, yes, sir.

THE COURT: All right. Now I can evaluate the worth of your testimony.

Go ahead, Mr. Freedman.

By MR. FREEDMAN:

Q. Now, were reports made to the Board at meetings that you attended concerning the negotiations with the employers? A. Yes, they were.

Q. Was Mr. McDonald in attendance at those meetings? A. I would say most of them. I don't recall whether he was at all of them or not.

Q. Did he participate in the discussions at all those [1279] meetings that he did attend? A. Every meeting I remember him being there he spoke on something.

Q. Did you attend the membership meeting that was held in the hall on Spruce Street in June of 1952. A. Yes, I did.

Q. Do you remember seeing Mr. McDonald at that time? A. Oh, yes, sir.

Q. Will you tell us who addressed that meeting, please? A. Well, Mr. Underwood was up there. There

was members from the Marine Trades, delegates from there, I guess you would call them. They all spoke. Mr. McDonald.

Q. What did Mr. McDonald have to say? A. He said we were doing very good with the strike, and the International was behind us a hundred per cent, keep up the good work, and he thanked the Marine Trades for helping us out.

Q. Was there any action taken by the body at that meeting? A. Yes, to continue the strike.

Q. You mean they voted to continue the strike? A. That's right.

Q. Was there any opposition to it? A. Yes, I can remember one man, I think his name is Volpe, got up and voiced his opinion. He was allowed to [1280] come up on the rostrum and speak, and the men were pretty burned up over the way he acted, because he was a foreman for Morrissey—he actually didn't operate—and they were really hot over it.

Q. Other than him, was there any opposition to the strike, to carry on the strike? A. No, there wasn't.

Q. Who invited him up to the rostrum to speak? A. Mr. Underwood.

Q. Did you learn of Mr. Carter's entry into the picture sometime in July of 1952? A. At the Board meeting, sir, yes, sir.

Q. Did you attend any of the meetings that were attended by Mr. Carter and the employers? A. I didn't attend the meetings, but I was outside the room, I believe on one occasion, but we were not allowed in.

Q. And you don't know what happened at that negotiation? A. No, I don't.

Q. Was there presented to the Board at one of those meetings this document which is marked P-41, entitled "Suggestions by Mr. Carter and Agreed to by the Employers"? A. This was read out to us.

Q. And did the Board take any action on it? A. Yes. We wanted to negotiate for ourselves. We didn't [1281] want any part of Carter.

Q. Now, following the several meetings attended by Mr. Carter, do you recall a telegram being sent in by the general president? First let me ask you whether you recall that a telegram was sent to the general president by Mr. Underwood, and I show you P-42 and ask you whether that refreshes your recollection? A. Yes, this was read out at the Board meeting.

[1282] Q. Did the board approve of this telegram? A. Yes, they did.

Q. I show you P-43 and ask you whether that telegram from Mr. Maloney to Mr. Underwood refreshes your recollection and whether that was considered at the board meeting. A. Yes, this was read out.

Q. Was there any action taken by the board in connection with this telegram, that is, P-43? A. We still wanted to negotiate for ourselves. It wasn't what was agreed upon at all from what we were told at the board, we had the right to negotiate for ourselves.

Q. Following that board meeting did you attend the membership meeting the same night at which that telegram was considered? A. Yes.

Q. Do you remember what happened that night? A. Let me see—it seems to me it was at Town Hall and the membership voted to reject that.

Q. Who addressed that meeting, do you remember? A. Underwood and Mr. McDonald.

Q. What did Mr. Underwood have to say? A. He said that he himself didn't feel it was anything he could recommend but that we had to vote on it ourselves.

[1283] Then McDonald spoke and said—

Q. What did Mr. McDonald have to say? A. He said that we had conducted the strike very good and we were doing very good, had a good local, the best on the East Coast, he said, but we ought to take the suggestion of the general president.

I believe Wharton spoke briefly there, that we should accept the general president's proposal.

Q. Did the membership vote on it? A. Yes, it did.

Q. What action did they take? A. They voted to reject it unanimously.

Q. What was the vote? A. It was unanimous to reject it, and also a motion came up to invite the general president to come to Philadelphia himself and explain why he wanted to have this agreement. But he never came.

Q. Now, following that do you recall that the general president issued an order terminating the strike? A. Yes, I do.

Q. Did you attend the meeting of the Executive Board at which the order of the general president was considered? A. Yes.

[1284] Q. Will you tell us what happened at that meeting, please? A. Well, we had a pretty long discussion on it. Most of the older members there talked quite a long time on it, on what could happen to us, and what was right, that we had the right to negotiate for ourselves, and then we voted on it, to reject.

Q. Was there any discussion about a lawsuit at that meeting? A. Yes, there was.

Q. And was there any draft of a complaint read or discussed at that meeting? A. Yes. Mr. Underwood had, I guess you would call it, a draft that he read off to us, what would be filed—

Q. Now, I show you the complaint filed, entitled "Civil Action No: 14071" and I ask you examine that and state whether or not it states substantially what was stated or read by Mr. Underwood at that meeting (handing to witness). A. Yes, I would say this is about what was read to us. I have read it since then.

Q. And may I ask whether it states substantially what was explained and read by Mr. Underwood at that time at that board meeting? [1285] A. Yes, sir.

Q. Was it discussed at length? A. Oh, yes.

Q. Were there many questions asked? A. I think just about everybody at the meeting asked questions on it.

Q. And what was the action of the board? A. To go ahead with the action.

Q. Did you personally approve of it, too? A. Yes, I did. I would do it again if I had to.

Q. Now, following that the lawsuit was started and certain conferences were held in Judge Grim's chambers. Did you attend those conferences? A. No, I didn't.

Q. Where were you at the time? A. I was working.

Q. So that you don't know anything about that? A. No.

Q. You do know, however, that a settlement was entered into in Judge Grim's chambers. A. Yes. I attended the meeting at Town Hall.

Q. The membership meeting? A. That is right.

Q. And at that meeting the membership voted on the
|1286| settlement proposal? A. That is right.

Q. And they voted to terminate the strike and accept it? A. Yes, after Underwood had talked and explained to us that it was the best thing for us all, to go back.

Q. Following that, supervision was invoked? A. That is right.

Q. After the men went back to work? A. I believe that same day.

Q. Now, since supervision was invoked, has there been any change in the conduct of the meetings? A. Yes.

MR. O'BRIEN: That is objected to.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Tell us what changes you personally know of.

MR. O'BRIEN: That is objected to, sir.

THE COURT: Overruled.

A. Well, at the first meeting that we had after supervision it was pretty rowdy—I mean, it wasn't conducted democratically at all.

The second meeting we had, I was at the door and Mr. Lavery then was the assistant supervisor, and he told

me to let nobody in but parent body men, when I was [1287] at the door.

Q. That was your official position? A. Yes, along with the sergeant-at-arms, but he wasn't there, so they put Eddie Piscatelli, business agent, on the other side. So as the men came in I checked them—not on my side but on the other side I saw two men go in which I knew were "A" men, Johnny Wolgast, and I can't remember the other fellow's name.

So I waited until afterwards and went up to the rostrum and told them that two men were in there that I knew. They were put out. But while they were coming in the door, Mr. Wharton, the supervisor, came in, and there were three or four men that I can recall—there might have been one more—with him, and I went to stop them and he said, "They are with me." And I can recall the first three carrying briefcases, and they had their hands inside the briefcases. It looked awful funny to me. Two of them I think went to the rostrum and one went into the meeting itself.

Then when the argument on the floor started with Jerry Leone and McCarthy got up to defend him, actually there was a scuffle. In the middle of that scuffle here was Wolgast back in, then the other fellow, Al Smith—

[1288] Q. The fellows you thought had been put out? A. They were put out, and Al Smith had let them in through the other door, the business agent who was supposed to be protecting the other door.

Well, the meeting broke up, and the incident happened in the elevator. I was standing out in the lobby when McCarthy came back, and he was a bloody mess. He looked like he had been worked over with a knife or a razor to me. I went back into the hall with him and eventually went down to the hospital with him.

Q. Now, how about the conduct of the meetings? Have you attended all of the meetings since supervision was invoked? A. Yes, I have.

Q. Did the men get an opportunity to speak freely from the floor?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. No.

By MR. FREEDMAN:

Q. Tell us about it, please. A. Well, if a man gets up to ask a question and it is something they don't like or don't want to answer, the goon squad on the side will start shouting and booing and [1289] cursing at him, and I have watched Jerry Leone, some of the things he had to go through to try to speak on the floor, it is just a disgrace, and other men, too.

Q. This squad that you are talking about, do you know who they are? A. Yes, I know most of them by face, some of them by name.

Q. Is it always the same group? A. Yes.

Q. Can you name those that you recall? A. Well, Lentino, Wolgast, a fellow by the name of Al Timera, I think his name is. There are so many it is hard to remember their names.

Q. About how many are there? A. I would say anywhere from 15 to 20, maybe more. It all depends on who is out of work and looking for a job. Some others who need work, they will come in and do whatever they are told.

Q. Other than this McCarthy incident have you noticed any other incidents of violence at the meeting? A. I have seen Jerry Leone, they gathered around him, and if it wasn't for a group of fellows being around there he would have got worked over good that night. I have watched Frankie Powell run from one side of the room to the other toward Gus Binder, threaten him, and we broke [1290] that up. Then on the minutes it was just the opposite, that Binder would run around and attack Frank Powell, which wasn't so.

Q. Who is Frank Powell? A. He is a member, a master mechanic now.

Q. So is he one of this group that you are talking about, this squad? A. Well, more or less, when he attends the meetings.

Q. What about unemployment since supervision was invoked? Do you have any personal knowledge about that? A. I have had to do something which I never had to do before. I used to work out of the hall. Now it is almost common practice to go out to try to find your own work. If you hang in that hall you will starve to death.

Q. You didn't attend the meetings in Washington and New York, did you? A. No, I didn't.

Q. Have you had any trouble paying your dues? A. Well, yes, I did. I went in to pay my dues, and the girl said she could only take one month's, so I wanted to see Miss Gallagher, who is in charge of the office. She came there and said, "That is our orders." So I paid one month.

[1291] The next month I went in there I paid one month. One time there was a new girl in the office, I went in around noontime, she took two months. I don't know why, whether she made a mistake or not. Then all of a sudden they started taking three months or four months, whatever you wanted to pay.

Q. Did you pay your money cash? A. Yes, I did.

MR. FREEDMAN: Cross-examine.

THE COURT: Mr. O'Brien, I want to ask some questions of Mr. Walsh.

By THE COURT:

Q. What do you conceive to be the powers of the National President of your union? A. Well, to direct the operations of a union, but I don't think he has the right—

Q. You say to direct the operations of a union. Now you are telling me powers he doesn't possess. This is what I want to get. A. Well, I don't think he has the right to take anything away from American citizens where they have the right to go to court.

Q. We are past that stage. We are in court now. So we are way past that. I am talking about in directing the

[1292] affairs of the union, what do you conceive to be the powers? A. Well, I think if the local union has local autonomy, they have the right to bargain for themselves and run their own affairs.

Q. Supposing in the considered judgment of a general president a situation is intolerable and needs correction in his judgment for the good of the whole labor movement, does the local have the right to override that decision? A. Well, it all depends on the circumstances, whether he is getting the right information or not, where the situation warrants it. It didn't in this case, I don't think.

Q. I am asking about power now, in your mind. Can he do it? A. I believe he would have the right if it was a case where somebody was stealing money or actually defrauding the members, yes.

THE COURT: All right. Go ahead.

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[1293] NATHAN WILLIAM UNRUH, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. How old are you, Mr. Unruh? A. 49.

Q. Are you married? A. Yes.

Q. Any children? A. Two.

Q. Where do you live? A. Moorestown, 215 New Albany Road, Moorestown, New Jersey.

Q. What is your occupation? A. Operating engineer and master mechanic.

Q. How long have you been in that field? A. Since 1940.

* * * * * * *

[1295] Q. After supervision was lifted in 1948, did you become an officer of the Union? A. On the Executive Board, yes.

Q. And since you became a member of the Executive Board have you been attending the meetings? A. The Executive Board meetings, yes.

Q. Do you recall whether, during any of those Executive Board meetings prior to May of 1952, the demands for a [1296] new contract were discussed? A. Oh, yes, thoroughly.

Q. Did the Executive Board consider the demands to be presented to the contractors? A. Yes, they considered them before they were presented to the contractors.

Q. And approved them? A. And approved them.

Q. How about Mr. McDonald, was he in attendance at those meetings? A. Whenever he was in town, yes. He was at pretty near all of the meetings.

Q. You say he was at pretty near all of the meetings? A. I would say yes.

Q. Did he participate in the discussions regarding the demands? A. He did.

Q. Did he assist in formulating the demands? A. He did.

Q. Did he say whether the International Union approved of the demands of the local union? A. Yes, very much so.

Q. During the period from May 1, 1952, until August of 1952, when the strike was being carried on, do you recall [1297] whether there was any unemployment among the operating engineers?

MR. O'BRIEN: Objected to.

THE COURT: Overruled, if he can tell.

A. There was no unemployment up there where I was at Cromby. We had permit men on.

By MR. FREEDMAN:

Q. Where were you working at that time. A. Cromby Station, Phoenixville, for the United Engineers.

Q. You say you had on your job permit men? A. We did.

Q. Why? A. Well, we had no men down the Hall to fill the job, so we had permit men on.

Q. Do you know where those permit men came from? A. Well, they didn't have any books. They were oilers, and they didn't have any books at all.

Q. Did you attend the meeting on Spruce Street in June of 1952, the membership meeting? A. I was on one meeting. I don't remember whether it was June. It was where the telegram came in. We had an Executive Board meeting before the meeting and then the meeting right after that.

[1298] Q. Would you say that that was in July of 1952? Let me put it to you another way: You say the one meeting you attended was the one where a telegram was presented? A. That's right.

Q. What telegram? A. Well, there was a telegram came from Mr. Maloney to accept the contract that the Contractors Association wanted to give us.

Q. Before we get to that point, did you attend the Executive Board meeting at which this paper marked P-41 was presented? It is entitled "Suggestions of Mr. Carter and agreed to by employers." A. Yes.

Q. Did the Board take any action with respect to that paper? A. They didn't like the idea that Mr. Carter was in the territory. They said he had nothing to do with it whatever, Mr. Carter has nothing to do with making our contract.

Q. Did they take any action with respect to the suggestions of Mr. Carter? A. Well, they suggested we not go along with him at all.

Q. You didn't attend any of those meetings that were attended by Mr. Carter, did you, Mr. Unruh? [1299] A. No. I was called to one of them, but we never got inside.

Q. You mean you were outside of one of them? A. I was called by telephone and told to come over there, that the contract may be reached that day, and he wanted the Executive Board right there in case the committee had reached any settlement, that we could go into a session and get it over with, and we stayed out there until in the afternoon Mr. Underwood come out and told us to go home, it didn't look like there would be any settlement there that day, so that was the only meeting that I ever went near that Carter was in.

Q. I think you said you attended the membership meeting at which Mr. Maloney's telegram was presented. Do you recall the telegram that was sent by Mr. Underwood? I show you here P-42 and ask you whether you had any knowledge of that telegram sent by Mr. Underwood to Mr. Maloney? A. Yes, I remember that.

Q. Do you recall whether that was authorized by the Board? A. It was.

Q. I show you P-43 and I ask you whether that telegram [1300] from Mr. Maloney to Mr. Underwood was considered by the Board? A. Yes.

Q. What action did the Board take with respect to that telegram? A. The Board rejected it and stayed on strike.

Q. Following that meeting do you know of the order which Mr. Maloney issued terminating the strike? A. Yes.

Q. Did you attend the meeting of the Board at which that order was considered and discussed? A. I did.

Q. Mr. Unruh, I show you the complaint marked Civil Action No. 14071, and I ask you to examine it and state whether or not the contents of that complaint substantially were considered at that meeting. A. Yes.

Q. Was it discussed at length by the Board? A. It was.

Q. Were many questions asked by the members? A. A lot of them.

Q. That is, the members of the Board? A. A lot of questions were asked.

Q. Did all of the members ask questions? [1301] A. Very near all, I would say. They all had their equal opportunity.

Q. What action did the Board take concerning that complaint? A. Well, they gave Underwood authority to file a complaint.

Q. Did you personally vote in favor of that resolution? A. I did.

Q. Was there any opposition to it? A. Not that I know of.

Q. Do you remember the vote that was taken? A. Yes.

Q. Can you state whether or not is was unanimous? A. It was unanimous, yes.

Q. Following that, Mr. Unruh, do you know that the lawsuit was started and settlement was arrived at in Judge Grim's chambers? A. Yes.

Q. Did you attend the meeting at which that settlement was submitted to the membership? A. Not the meeting, Executive Board meeting.

Q. You attended the Executive Board meeting? A. Yes.

[1302] Q. And what did the Executive Board do about it? A. Well, the Executive Board—how can I place it—they were for it. He submitted to the membership to go back to work and take Judge Grim's suggestion. They also said that it was with the understanding that Mr. Underwood would negotiate the contract with the Board that was set up.

Q. You mean in the arbitration? A. The arbitration, yes.

Q. Now, following the acceptance of the proposal by the membership, you learned that supervision had been invoked, did you not? A. I did.

Q. Did you have occasion to come into the office of the union following that? A. No.

Q. Has there been any change in conditions following the imposition of supervision?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. Since supervision was invoked have you attended any of the meetings, Mr. Unruh? [1303] A. No. One Executive Board meeting.

Q. Are you still a member of the Executive Board? A. Yes. I have never been taken off of it that I know of, never been notified.

Q. And did you attend all of the Executive Board meetings that you were called to? A. I did.

Q. Or given notice of? A. I did.

Q. And how many metings were you given notice of? A. Only two.

Q. Have you attended any of the meetings, membership meetings, since supervision was invoked? A. No.

Q. Are you able to state what the conditions are with respect to employment in the union since supervision was invoked?

MR. O'BRIEN: Objected to.

MR. FREEDMAN: Of your own personal knowledge.

THE COURT: Overruled.

A. Well, my own personal knowledge, the business agent came on my job, and he didn't act very gentlemanly, and in the general rule, the business agents don't seem to [1304] carry out their work, the work they are supposed to do. That is the only difference I can see.

Q. How about you? Have you had any difficulty obtaining employment since supervision was invoked?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Well, yes. When George Gaul came up on the job, about three months before the Phoenixville job was finished, he told me that I would never work as master mechanic in the territory again as long as he was business agent, and that fact has come true.

Q. George Gaul is one of Mr. Maloney's business agents? A. That's right.

Q. Under supervision? A. That is right. When I got done up there on December 6th, I was off for four months, well, till the last week in March, and I went up to see Mr. Murphy at 28th and Christian, and he said, "Well, that job is not ready to start yet. Go get yourself something to do until the job starts." He said, "I will give you a call."

That's the job at Eddystone. So I went down to Harry Wilson, and I got put on there. It was only supposed to be two days, and it lasted to right before Christmas. Friday before Christmas, and when the job at [1305] Eddystone started, I didn't get the job as master mechanic, as you can well see, and that was through the business agent. It couldn't be through anybody else.

So then I didn't get called back to Harry Wilson. They took my crane and put it out on another job and took one of their old men and put him on that crane and sent another crane in its place, and they have hired other men since. For what reason, that's beyond me.

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[1306] MICHAEL CONCORDIA, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. How old are you, Mr. Concordia? A. Forty-five.

Q. Where do you live? A. 5278 Jefferson Street, Philadelphia 31.

Q. Are you married? A. Yes, sir.

Q. Any children? A. Four children.

Q. What is your occupation? A. Operating engineer.

Q. Would you be good enough to trace your work record from the time you first became an operating engineer? When did you start in that business? A. I started in construction work in 1929.

* * * * * * *

[1312] Q. Now, when did you join the Operating Engineers? A. In 1940, sir.

Q. What branch did you join? A. "B" branch.

Q. Did you subsequently become a member of the "A" branch? A. Yes, sir.

Q. When? A. The "A" branch, did you say?

Q. The parent body, I mean. A. In 1946.

Q. During that period the union was under supervision, was it not? A. Yes, sir.

Q. Under Mr. Maloney— A. Well, at that time Mr. Maloney was the general president and Joe Fay was the business manager and Jasper [1313] White was the assistant business manager.

Q. When you say business manager, you mean supervisor? A. Supervisor.

Q. They were never elected by the union, were they? A. No, sir, not as far as I know.

* * * * * * * *

Q. Did you attend all of the membership meetings or most of the membership meetings during supervision prior to 1948, Mr. Concordia? A. Well, before supervision I attended most of the meetings.

Q. You mean before autonomy? A. Before autonomy, that is right.

Q. Can you tell us how those meetings were conducted, please?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Well, the meetings were conducted in the manner that if you spoke in favor of the officers that were in power at the time, you spoke, and if you didn't, you didn't speak. That was it. They benched you if you done [1314] something out of the way that you thought you had the right to do, they just benched you and that was it.

Q. When you say "benched", what do you mean by that? A. You stay on the "out-of-work" list for a long time.

Q. Now, do you recall when supervision was terminated in 1948? A. Yes, I do.

Q. And Mr. Underwood was elected as president at that time. A. Yes, sir.

Q. Were you elected or appointed to any office after that? A. No, sir.

Q. Have you held any office in the union at all? A. No, sir.

Q. Have you attended all of the meetings since that time? A. Yes, with the exception of when I was in the service and when I worked out of town.

Q. Was there any change in the conduct of the meetings prior to 1948 during supervision and following the lifting of supervision? A. Yes.

MR. O'BRIEN: Objected to.

[1315] THE COURT: Overruled.

A. Yes, there were a lot of differences.

By MR. FREEDMAN:

Q. Will you tell us what they were, please?

MR. O'BRIEN: Objected to.

Q. I mean the important ones.

THE COURT: Overruled.

A. Well, just like evrybody else stated here, when Roy was in office, the people could get up and say something. Even if there was somebody that didn't want to hear them, Roy always stood up for the man and let him say what he had to say, regardless of whether it was in favor of him or against him. The men had an equal opportunity to say whatever they wanted to say.

Q. What about employment in the union?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Unemployment was an unusual thing, Mr. Freedman. People got done their job and they were replaced as soon as there was a job available. There wasn't too much unemployment.

Q. During autonomy, you mean? A. That is right. There wasn't no such thing as benched, [1315a] because I discussed it at that, and I was very much against it of anybody putting another man out of work for saying something that he thought was right to say.

[1316] Q. Now, what about the union's contracts? Did the membership have a voice in the contracts and entering into contracts prior to autonomy in 1948. A. There

was never no discussion. It was just either we strike, or we will know tonight, we will know if we are going to go out on strike. We will let you know. That is all. The contract was never read to the membership.

Q. Was there any change after Mr. Underwood came in? A. Yes, there was.

Q. What was the change?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. The contracts, I can tell you this, that the condition was—they were argued among the members. We the members had the right to make suggestions of what we wanted, and then it was discussed between the Executive Board, and at the next meeting it was brought back to us.

By MR. FREEDMAN:

Q. Did the membership approve the demands before they were presented to the contractors, as a rule? A. That's right. It was brought before us.

Q. Do you remember the demands which were presented to the membership shortly prior to May of 1952, both with respect to the independents and the association contractors? [1317] A. Well, I remember the demands, yes. We were trying to get the rates, something similar to the Jersey rates, and we had a pension plan, safety code, and the retroactive pay, which the association, the people that had been working for the association, hadn't gotten, and as far as the safety code and the pension plan, they were the items that was shoved down our throats by the general president, in the reports on the monthly bulletin that comes from the International office.

MR. O'BRIEN: I move that the answer to the last question be stricken.

THE COURT: I think it was not called for. It may be stricken.

By MR. FREEDMAN:

Q. Mr. Concordia, will you state whether the mem-

bership gave consideration to the proposals before they were presented to the contractors? A. Yes.

* * * * * *

[1318] Q. Now, was there a strike on May 1, 1952, against the association contractors? A. Yes, there was.

Q. During the period of that strike, say from May 1 to August, was there—

Where did you work during that period? [1319] A. I worked at the Morrisville plant. See, I had quit Buckley in 1951, when Judge Grim—

Q. Just answer the question, please. You worked at the Morrisville plant during that period? A. Yes, sir.

Q. During that period did you have an opportunity to observe whether any of the engineers were out of work? A. Yes, sir.

Q. Were any of the engineers out of work?

MR. O'BRIEN: Objected to.

THE COURT: I am going to let him answer it if he can speak for—

THE WITNESS: I can, sir.

By THE COURT:

Q. You can speak for the whole trade? A. I can speak, because at the time, Your Honor, I was master mechanic, and I had so many men working that I supervised.

Q. All right. A. Well, to make it short, Your Honor, there wasn't any, I can say that there was nobody out of work in the engineers, because in the job that I was supervising, Your Honor, I had men from various locals. I had men from the Baltimore local, I had men from Washington local, I had men from Local 66. I [1320] had men from Long Island, and I had men from Jersey. Speaking of the Baltimore local only, I must have had about 25 men under my supervision just from the one local.

Q. How many did you have total? A. I would say I had about 55 men, sir.

Q. How many members in your union? A. In our union?

Q. Yes. A. At that time there must have been close to a thousand, Your Honor.

Q. You know about 55? A. Oh, no, sir. They were under my supervision. I was master mechanic, and those are the men that I was supervising, the job.

THE COURT: That is what I understood you to say.

Go ahead, Mr. Freedman.

By MR. FREEDMAN:

Q. Now, can you explain why you had these men from out of town on your job?

MR. O'BRIEN: Objected to.

THE COURT: If he can explain why, he may.

A. Well, the reason for that is because we didn't have enough men.

[1321] Q. You mean enough local men? Q. That's right, sir.

Q. Now, can you state whether there was any unemployment that you could see, and I am asking you to testify now regarding your own personal knowledge, what you know of your own knowledge, among the other trades. A. Yes, sir.

Q. First of all, tell us how you know, what your knowledge is. A. Well, you see, my knowledge is this, that there was a strike called by the Building Trades Association, Building Trades Council. That was a strike in Levittown.

Q. Do you remember when that was? A. In 1952.

Q. Go ahead. A. In order to put pickets on that job, the Building Trades Council called a strike on the Morrisville plant, shut the Morrisville plant, and the only people that could enter the plant was the people that was on an emergency, but in order to put the pickets on the Levitt job, there was a strike for two days. Then there was an injunction handed down from the court, Bucks County Court. The pickets was restricted, and the Building Trades

then sent the men back to work, and after that each trade was supposed to muster so many men to picket [1322] that job.

Now, I worked, I would say, 99 per cent with our business agent, Pete Pantaleo. My job up there was, I had the third shift, night work. After I was done with my job, some of my men used to volunteer to picket. I used to meet Pete outside on the Levittown job, and every morning there we would go out and meet him and he would give me the orders where to go, what job to picket, but most of the time, first we stayed around the Levitt job.

Now, Pete used to meet Mr. Jim Laverne, I believe his name is. He was one of the officers of the Building Trades Council, and Pete used to say to him, he says, "Where are your men here? You people are supposed to muster men to picket this job here, and I don't see one man. All I see here is the operating engineers."

And nobody can deny that. Pete is right here. He couldn't say nothing. They couldn't muster anybody to picket that job. We were doing the picketing for the Building Trades Council, and we could have signed, I know that we could have signed an agreement with them any time we wanted to, because even Pete used to tell him, he says, "We are just supporting you fellows here. We can go to work for those people at any time we want."

Q. At that time do you know whether the operating engineers [1323] belonged to the Building Trades Council? A. No, sir. I know that we didn't belong to it, and I know that we donated a thousand dollars to support their strike, and I even used to buy coffee out of my own money, buy coffee and coffee cake to distribute among the fellows that was picketing with me, and then Pete Pantaleo used to reimburse me. In fact, a lot of times I used to say, "I don't want it, I don't want it, I am working," but Pete says, "You take it, because I will turn it in as expense."

Q. Now, Mr. Concordia, did you attend the membership meeting at the hall on Spruce Street during June of 1952? A. Yes, I did, sir.

Q. Do you remember what happened that night? A. Yes. Well, that was a meeting because we heard of a back-to-work movement, understand, but, well, the meeting was, we had the meeting.

Q. Who addressed the meeting? A. Roy, Mr. Underwood, presided at the meeting, and John McDonald, our third vice-president, he addressed us.

Q. What did he have to say? A. What did he have to say? He says that we were doing a fine job—

MR. O'BRIEN: Objected to.

If Your Honor please, the minutes of that [1324] meeting are the best evidence of what transpired at the meeting. I object to this testimony.

THE COURT: I overrule the objection.

A. (Continuing) Mr. McDonald told what a wonderful job we were doing, and that the International president was in back of us a hundred per cent, to keep the good work up; and after him we had several other people that got up, which they were officers from the, I believe the Maritime Trades, and they spoke, and they were very much in favor of us. They were in back of us a hundred per cent. They were supporting us.

By MR. FREEDMAN:

Q. Now, were you aware of the entry of Mr. Carter into the picture at the time he came in, or were you told about it afterward? A. Well, I knew about it, that he was coming in.

Q. You didn't attend any of those meetings, did you? A. No, sir.

Q. Did you attend the meeting at which the telegram containing the proposal from Mr. Maloney was presented to the membership? A. At the general meeting?

Q. Yes. A. Yes, sir.

[1325] Q. That was August 5 of 1956. Do you remember that? A. Yes, sir, I do.

THE COURT: August 5 of what year?

THE WITNESS: 1952, sir.

MR. FREEDMAN: 1952, it should be. There is a 56 up here, which is wrong, apparently.

By MR. FREEDMAN:

Q. Will you examine that telegram and state whether or not that telegram was presented to the membership at the meeting on that date? A. This is it, yes.

Q. What action was taken by the membership in connection with that telegram? A. When that telegram was read, Mr. Freedman, it created a turmoil. Well, first of all, Roy outlined that telegram, and he expressed his opinion that he couldn't see how he could go along with a request like that, and a motion was put on the floor and seconded that that request he rejected, and it was rejected unanimously, and, in fact, right after that motion was rejected, a brother by the name of Mike Howlett, he got up, and, man, I am telling you, like a devil. He said, "Let that s. b. come over here and tell us to go back to work under these conditions."

Q. Who was it who said that? [1326] A. Mike Howlett. He is a two-faced, no—

Q. No, no. A. I am sorry.

Right after that a brother—

Q. Can you state what he is doing now? A. Oh, he gets all the gravy jobs. I don't know what he does.

Q. Is he an appointee of Mr. Maloney's in connection with any of the present activities? A. Oh, yes, I think he is an officer of the Welfare Fund at the present time.

Q. And who put him in there? A. Mr. Maloney.

Q. All right, please proceed. Tell us what was said and what happened, Mr. Concordia. A. Well, right after that I remember distinctly Brother Dominick Danhi made a motion—and he is right here in this courtroom and can't deny it—he made a motion to invite the general president anl let him come in here and tell us why we should go back to work under these conditions.

The motion was put on the floor. The body voted

unanimously for Maloney to come before us. We never saw him.

And at that meeting, may I add, Mr. Freedman, [1327] that Mr. McDonald, John McDonald, after, I don't know how he could have done, after all the days that we had been on the strike, and it was a successful strike—I can't see—we couldn't have lost—

Q. Tell us what Mr. McDonald said.

MR. O'BRIEN: Before you do, I more that the answer to that last question be stricken, sir. It is not responsive.

THE WITNESS: Your Honor, I am telling the truth. I am telling the truth, Your Honor. Those are the facts, Your Honor.

THE COURT: Your answer is stricken.

Proceed.

MR. FREEDMAN: What was my last question, please.

(The reporter read as follows:)

"Q. Tell us what Mr. McDonald said."

THE COURT: Let us get something straight, Mr. Concordia. I will make the observations; you tell us the facts.

THE WITNESS: I am telling the facts.

THE COURT: Yes, but you draw conclusions. You are trying to take my place in some manner.

THE WITNESS: I am sorry, sir. I don't mean [1328] to do that, but my emotion—

THE COURT: Well, I want you to keep your emotions under control.

THE WITNESS: I am sorry, sir.

Well, Mr. McDonald told us to go along with the telegram that the general president requested, and even Hunter Wharton told us to go along with the general president's request.

By MR. FREEDMAN:

Q. Mr. Wharton addressed that meeting also, I take it? A. Yes.

Q. And I think you did tell us how the membership voted on the telegram itself. A. Oh, it was rejected unanimously. At that time we were 4,000 into 1, Mr. Freedman, 4,000 into 1. We were united.

Q. Following that meeting, was the next meeting that you attended the membership meeting at which Judge Grim's proposal was presented? A. Yes, sir.

Q. And do you remember what the action of the membership was on that occasion? A. Well, yes, I remember. That was at Town Hall. The place was packed. You couldn't have gotten anybody else in that meeting.

[1329] Q. They voted to accept Judge Grim's proposal? A. Yes, we voted to accept.

Q. And they went back to work the following morning, did they not? A. That's right.

Q. Supervision was invoked the same day they went back to work? I suppose you know that? A. Yes, sir.

Q. Did you attend the meeting in Washington in connection with supervision on the 26th of August? A. Yes, sir.

Q. Tell us what happened at that meeting, will you, please. A. Well, we went to Washington, and they took us up in the, I don't know if it was the third or fourth floor, in the place where they store papers, and there was Mr. Thomas, Mr. Carter, and for Roy, it was Mr. Underwood, myself, Jimmy Russell, Colombo Acchione, Jerry Leone, Homer Dawson, Brightbill, Hank Lavery, Pete Pantaleo, Al Smith. In fact, Hank Lavery even took his wife down there, but she didn't come into the hearing, she couldn't come in.

Well, anyway, Carter told us that he was to preside at the meeting because Maloney wasn't there, and we got down to business there, and Mr. Thomas started to ask questions to Mr. Underwood. All I can recall was, how

much [1330] money did we give to the Maritime to support our strike, and things of that sort.

Mr. Underwood asked that we should have a lawyer there. He says we were denied a stenographer, we asked for a stenographer, and we were denied about that.

So he went on to ask more questions, and Roy didn't answer because—he would write something down whenever he felt like there, whenever it was the proper time, I guess.

Then he went on to, I believe he asked Pete Pantaleo something there about some contract. Well, he asked all of us there if we wanted to say anything, and nobody wanted to say something, because we didn't have a stenographer there or an attorney with us. We were denied it.

But off the record, I told Mr. Thomas, when we were going out—the meeting didn't last no more than about 20 or 25 minutes—and I told Mr. Thomas that they were trying to crucify a man that wasn't responsible for what was happening, but all he did, he shrugged his shoulders and we walked out.

[1331] Q. Didn't he reply to you at all? A. He didn't reply nothing, and that was the end of that meeting.

Q. Did you also attend the meeting in New York on the charges against Mr. Underwood? A. Yes, I did, sir.

Q. Now, before that meeting did you send a letter to Mr. Maloney regarding the arbitration that was to take place immediately following the return of the men to work? A Yes, sir.

MR. FREEDMAN: Will you mark this, please.

(Envelope addressed to Mr. William E. Maloney marked at the bottom "Registered Return Receipt Requested" was marked Exhibit. P-73 for identification.)

By MR. FREEDMAN:

Q. P-73 is an unopened envelope addressed to Mr. William E. Maloney, General President, International Union of Operating Engineers, 1003 "K" Street, Washington,

D. C., by Registered mail and returned. Mr. Concordia, I show you P-73 and ask you whether you sent that letter to Mr. Maloney. A. Yes, sir.

* * * * * * *

[1333] Q. Did you attend the meeting in New York on the charges against Mr. Underwood? A. Yes, sir.

[1334] Q. Who was there, do you remember? A. Well, at that meeting—do you mean with Mr. Underwood or—

Q. Well, who attended the meeting? Tell us what happened at the meeting. I first want to know who was in attendance at the meeting. A. Well, there was the whole General Executive Board, and there was Mr. Underwood, myself, Colombo Acchione, James Russell, Jerry Leone, Homer Dawson—I think Gus Toppi was up there. I think Pete Pontaleo was up there also, and Frank Lentino was up there.

Well, when we went into the Commodore Hotel there, we had to register. So we went up to the room where we are supposed to register, and Maloney was at the door. So naturally when you go in, we introduced ourselves as we went by him. I says, "My name is Michael Concordia."

And he says to me, "Oh, you were the one who sent me the letter."

And I repeated, "Yes, I sent you the letter and my name is Michael Concordia."

He said, "All right."

So we goes in and signed ourselves, and that was it.

[1335] Then at the meeting the president, Mr. Maloney, he opened the meeting very shortly and he handed the chair over to Delaney, and he presided for the meeting.

Well he outlined what it was about, it was about Mr. Underwood's case, and from there Mr. Thomas started reading the charges. Well, he read for about 15 or 20 minutes I would say.

Well after he was done, Mr. Underwood, he started to answer the charges.

Q. Did Mr. Underwood ask for an attorney? A. Oh, yes, he did.

Q. Or make any other request at that meeting? A. Yes. We made a request for an attorney, and we made a request for a stenographer. Both denied. He said, "They don't allow that."

Q. Go ahead. A. So then he went on and he read the answer to the charges. And after he was through, Delaney asked him if there was anything else he wanted to say, and again Mr. Underwood says that he felt that in order to answer the charges that Mr. Thomas had read he should have had an attorney there. But, like I said, it was denied.

Well, after Roy got done, Mr. Leone spoke [1336] in favor of Mr. Underwood. Mr. Colombo Acchione, he spoke in favor of Mr. Underwood. I believe Mr. Toppi got up and said something in favor of Mr. Underwood also. And I got up and I spoke. And again I stated before the General Executive Board there and the people that was elected to that hearing there, I told them that they were crucifying the man for something that he wasn't responsible. It was a very untrue statement said by the Building Trades Council that there had been 6500 people out of work, which was very untrue. I told that to the assembly there, and I told them that right along we had a strike of 110 days, to be exactly, and the General Vice-President being at every meeting that we had telling us that we were doing a good job, to keep the good work on, that we had the contractors licked. I stated that, and I told them, up to the last meeting.

Well, when I said "up to the last meeting," John McDonald didn't like it. He got up and says, "I did not say up to the last meeting." Well, maybe he was corrected, nevertheless he had stated before us times and times that the International was in back of us 100 per cent, we were taking it in, and I told the members there that we are urging our President, which was Roy, to go [1337]

ahead after our demands, and I was one—I told them that I was one making the motion and we should stay on strike, and everybody was united that we had the strike licked.

Well, I made those statements before them. That was all.

Then I don't know if there was somebody else that spoke, and that was all I said.

Q. Who spoke after you? A. Well, I don't know if it was—I think it was Gus Toppi that spoke after me. I don't remember right now, I don't recollect.

Q. Did Mr. Maloney speak? A. Oh, yes.

Q. After you? A. He was the last one to speak, Mr. Freedman, and the words that he used I remember very well. He says—well, he started to talk, and then I believe it was Jimmie Russell, he injected a little bit there, and he told him to sit down, that he had his say, and now he wanted to say something.

Well, all he said was that he was accused of being a strikebreaker, and that all he was trying to do was to bring the parties together, and for that he was [1338] being called a strikebreaker. He says he wasn't doing anything, he was just trying to bring the contractors and the union together.

That is all he said.

Q. That was the end of the meeting? A. That was the end of the meeting, Mr. Freedman.

Q. Have you attended the meetings during supervision, since supervision has been invoked in 1952, in August, '52? A. Yes, I have.

Q. Is there any difference in the conduct of those meetings with the manner in which they were conducted during autonomy?

MR. O'BRIEN: Objection, sir.

THE COURT: Overruled.

A. Yes.

Q. When was the first meeting held? A. Well, the

first meeting was held, I think it was a good bit, about three or four months after we had supervision invoked, if you want to call it a meeting. We had a meeting that lasted about 10 or fifteen minutes. At that meeting, well, something terrible happened. First of all, the meeting was opened, and there were people there that didn't belong there at our meeting.

[1339] Q. Who were they, do yon know? A. Well, I don't know who they were, but there were three of them up on the rostrum, and one of them was sitting right next to me, to my left, because I was sitting in the front row, and this particular one, he had a gun, and he made sure that I saw it. For some reason or other this fellow sat to my left, and George Gaul, who is the present business agent appointed by Maloney, was sitting on my right. But he only sat there for about five minutes. He got up and he walked away, and then this fellow here stayed there for about 15 minutes—not even 15 minutes. What am I talking about? The meeting didn't even last 10 minutes. He stayed there for a while, and then he walked away. But he made sure that I saw that gun.

Q. Where was the gun? A. On his shoulder holster, on his left side.

Well, anyway, the meeting started and there was a question on the floor. Jerry had the floor, and he had called for a division—not a division—well, in other words, those fellows that was at the meeting, they had no business being there.

Well, Jerry was trying to say that, and somebody, I think it was Frank Lentino, he got up and said something, and there was an argument between Frank [1340] Lentino and—what is that fellow's name that was beat up? I can't think of his name.

THE COURT: McCarthy?

THE WITNESS: McCarthy, yes, sir, thank you, Your Honor.

McCarthy told Frank Lentino that Jerry had the floor, to let him go on and speak.

And there was almost a fight created right there. But I was sitting in the front. And I stood on top of the chair to see what I could see, but the fight was restricted right then. And for the time being the meeting was sort of adjourned.

Well, we were talking amongst ourselves there— I was still about in the front row of the meeting there. All at once I saw McCarthy walk back in the room— he was a mess, full of blood, and he started to holler at Mr. Hunter Wharton, and he told him, pointing at him and says, "You did this to me. This is an example of the International Union, of supervision."

MR. O'BRIEN: I move that that be stricken, sir.

THE COURT: Overruled.

MR. O'BRIEN: Well, sir, it certainly could not be taken as the fact that Mr. Wharton beat McCarthy.

[1341] THE COURT: It is not taken for anything more than conversation and the conduct of a particular meeting. There is no assumption of truth in any accusation made until is is proved.

Go ahead.

A. So at that I started to holler at Mr. Wharton myself, and I told him, I says, "Mr. Wharton, look at this man. Is this the way you people operate? It is a shame."

Then I got ahold of McCarthy, we took him to the hospital on Broad Street there, and I even paid for the bill myself.

By MR. FREEDMAN:

Q. Did Mr. Wharton make any response at that time? A. He told him that he wasn't interested in his private affairs. That is just exactly what he said. He just went like this (illustrating with hands), "I am not interested in your private affairs."

[1346] Q. Mr. Concordia, last night we were discussing the conduct of the meetings during supervision. Will you please continue and tell us what other incidents you know of your own personal knowledge which reflect the conduct of the meetings during this period of supervision.

MR. O'BRIEN: If Your Honor please, that is still subject to my objection.

THE COURT: Proceed.

A. Yes. I want to take, for example, the way they raised our dues, Mr. Freedman. Well, they raised our dues one dollar. I think it was the meeting of September or October, I can't recollect. They tried to raise our dues the early part of 1956. They introduced a proposal to the membership that the dues be raised one dollar at that time, because we had to help some of our fellow members that were in jail—

By THE COURT:

Q. Were they in jail as a result of union activity? A. Yes, Your Honor.

THE COURT: All right, go ahead.

THE WITNESS: So the members that night, at that particular meeting, wanted to specify a certain amount, [1347] how much was to go to the members, our members, to help them, and how much was to be raised for dues. Well, they wanted to raise it a dollar, but the membership didn't want that. We wanted a specific answer how much was supposed to go to each, for the union, and so much to help the people that was in jail.

Well, they did not succeed to raise the one dollar the way they wanted. There was a long discussion on this here proposal, and the members saw fit, instead of one dollar, we raised our dues to a dollar and a half in order to help our fellow members, and the specific amount was put, 75 cents was supposed to go to the help of our fellow members and

50 cents was supposed to go to put some more business agents, so they put it.

Well, it came to the time when our fellow members came out of jail, and they didn't need any more help, Your Honor, and the month of September or October, like I said before, they came back at us—we knew that the 75 cents was supposed to be discontinued—they came up with another proposal that the dues be raised 50 cents. In other words, they wanted to bring it back to the dollar which they had introduced at the beginning. The members couldn't see that, and somehow one of those fellows that usually muffs us down made a motion that the dues be raised, [1348] and there was a commotion there, and Mr. Hank Lavery introduced that motion, and he hollered, "All in favor of the motion," and the members at that time, they didn't want, we were hollering, "No, no, no, we don't want that motion introduced."

He says, "The ayes have it, and so ordered," and the members didn't know what they were voting for, and I got up and I told Mr. Hank Lavery over there that he was nothing but a racketeer, he was aiding—

MR. O'BRIEN: I move that that be stricken, sir.

THE WITNESS: I said that at the meeting, Your Honor.

THE COURT: It may be stricken.

THE WITNESS: I told him that at the meeting.

THE COURT: I don't care what you told them at the meeting. You better be a little choice in your language at times.

THE WITNESS: I am sorry, Your Honor. I meant to repeat just what I said at the meetings.

By MR. FREEDMAN:

Q. Mr. Concordia, do you know of any other incidents of violence that you observed personally in the course of the meetings?

[1349] MR. O'BRIEN: The same objection, sir.

THE COURT: The same ruling.

A. Yes. I recall the time that Kaye, Whitey Kaye, was jumped.

By MR. FREEDMAN:

Q. From Delaware? A. That's right.

Q. Did you see the fight yourself? A. I saw it, yes, I saw as much as I could.

Q. Well, tell us what you saw, please. A. There was a discussion on the floor. I don't remember now if it was Jerry that was—no, it was Bill Hogan that had the floor, and somebody, this Johnny Wolgast, told him to sit down, hollered him down, you know, and this Whitey Kaye said, "Listen, if you don't want to hear him, you just sit down yourselves; keep by yourselves. I am interested in what he has to say. I want to hear it," and almost at that time Whitey Kaye told them, "You make me sit down," and they went over there and they started a little commotion there, but the fight was restricted right there, and this Johnny Wolgast, they put him out of the meeting; but somehow the meeting started again, and as the meeting was adjourned, I don't know where this Johnny Wolgast came from, but he had his shirt off, and I saw him leap from the side of the wall at [1350] Whitey Kaye just like a tiger, and right away everybody got in the fight over there and they were throwing punches. I couldn't see just who was—

Q. That was right after the meeting? A. Right after the meeting was adjourned.

Q. Was any action taken by the Chair in connection with that incident? A. No, sir.

Q. Mr. Concordia, have you talked to any members about supervision and about these lawsuits? A. Yes, sir.

Q. Have you discussed the question of whether they want supervision or whether they don't want it? A. I have, sir.

Q. And whether they want Mr. Underwood? A. Yes, sir.

Q. Can you state approximately how many people you have spoken to since August of 1952? A. Yes, I think I can.

Q. About how many would you say? A. I would say I spoke to over a thousand people, and they all want local—

MR. FREEDMAN: No, no, just a minute.

If the Court please, I make the same offer [1351] that I made before. I offer to prove by this witness that these people that the witness has spoken to are all against supervision, they want autonomy, and they are behind Mr. Underwood and are in favor of these lawsuits.

MR. O'BRIEN: Of course, I object to the offer of proof, sir.

THE COURT: I sustain the objection.

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[1352] THEODORE C. McCARTY, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. How old are you, Mr. McCarty? A. 35.

Q. Where do you live? A. Clementon, New Jersey.

Q. Are you married? A. Yes, sir.

Q. Any children? A. Two.

Q. What is your occupation? A. Crane operator.

Q. How long have you been in that work? A. 15 years, I suppose.

* * * * * * *

[1355] Q. When did you first join the union? A. I first joined the union in 1946, the B Local.

Q. The B branch? A. Yes.

Q. When did you get into the parent body? A. In 1947 or 1948 I transferred into the parent body.

Q. I see.

Now, do you recall the strike that started on May 1, 1952? A. Yes, I recall that.

Q. Did you participate in the strike? A. No, I didn't participate. I was working in Jersey at that time, that particular time.

Q. I see.

Now, did you attend the meeting when Mr. Maloney's telegram was voted on by the membership? A. Yes, I was there.

Q. That was the first week in August of 1952? A. Yes.

Q. Do you recall who spoke at that meeting? A. Mr. McDonald spoke at that meeting, if I recall right.

Q. Did you attend a meeting in June on Spruce Street? A. No.

[1356] Q. You did not? A. No.

Q. I see. Tell us what you remember of the meeting in August when Mr. Maloney's telegram was under consideration. A. Well, the only thing I can recall is that the members rejected his proposal to go back to work. That's all I can recall.

Q. Do you remember Mr. McDonald speaking? A. I remember Mr. McDonald speaking, and I am not sure, but I think I remember seeing Mr. Wharton.

Q. Following that, you know that supervision was invoked? A. Yes.

Q. On August 19, 1952.

Did you attend any meetings following supervision? A. Only one.

Q. When was that? A. March of 1953.

Q. March of 1953? A. Yes.

Q. Before you went to that meeting were you threatened by anyone about going to that meeting?

[1357] MR. O'BRIEN: That is objected to, sir.

THE COURT: It is leading, but I will overrule the objection.

MR. O'BRIEN: Sir, our objection is that any issue or any questions regarding what happened, such as the question posed by Mr. Freedman is irrelevant

or immaterial to any issues in these cases. This is after supervision was invoked. It has nothing to do with whether or not supervision was properly imposed or whether Mr. Underwood was properly dismissed as president.

THE COURT: I will overrule the objection.

By MR. FREEDMAN:

Q. Did you get the question? A. Yes.

Q. Would you mind answering it? A. Yes, Mr. Gaul told me not to be at that meeting.

Q. Who was Mr. Gaul? A. The business agent for 542.

Q. Where did this take place, and was there anybody else present at the time? A. It took place on the Cromby job in Phoenixville, Pennsylvania. And present when he spoke was Mr. Hogan—

Q. Bill Hogan? [1358] A. Yes, Mr. Hogan, William Hogan, and Frankie Priscopo, and my oiler, Larry Love.

Q. Now, just exactly what did Mr. Gaul say to you? Mr. Gaul is the business agent under Maloney, appointed by Mr. Maloney? A. Yes, from what I understand.

Q. I see. What did he say to you, as closely as you can remember? A. He just told me, he just come right out and said, "Just don't you be at that meeting, because if you do and try to participate," he says, "I am going to have you carried out." That is the exact words the man said.

Q. Was there any reason for him making that statement?

MR. O'BRIEN: Objected to.

By MR. FREEDMAN:

Q. That you know of?

THE COURT: Overruled.

You may answer.

A. Only the fact that I was for Underwood. That is the only reason, to my knowledge.

MR. O'BRIEN: I move that the answer be stricken.

THE COURT: Overruled.

[1359] By MR. FREEDMAN:

Q. Now, did you go to the meeting? A. Yes, I did.

Q. Tell us what happened at that meeting?

MR. O'BRIEN: Objection.

THE COURT: Overruled.

A. I went to the meeting, and Mr. Gaul was at the doorway when I went in, and I went in, and I spoke to Mr. Gaul, and I sat with my back to the wall—I went in and immediately went to the last row in the hall and sat with my back to the wall, and the meeting was opened, and Mr. Leone, he got up, and he had a motion on the floor that all members of the local would leave, and Mr. Lentino—

Q. Is that Frank Lentino? A. Mr. Frank Lentino, he kept interrupting and one thing and another, and the first thing you know I got up and I asked Mr. Lentino to sit down, to have a little respect for the fellows talking on the floor, and to let him say what he has to say, and then for him to get up and say what he has got to say, because I was interested in both sides of the story.

The first thing you know he tears his jacket off and says, "What the hell, are you a tough guy?" [1360] and he started coming across the floor.

At that time our meeting was adjourned. The meeting, I imagine, lasted 15 to 20 minutes.

Then Lentino, from where he was standing, he left, and he went up to the rostrum and talked to Mr. Wharton, and then he went back to Pete, where Mr. Pete Pantaleo was standing, and he went back and talked to Pete and left Pete Pantaleo and went back up to Mr. Wharton at the rostrum.

Q. When you say he, who do you mean? A. Mr. Lentino.

Q. Go ahead. A. He went back to Mr. Wharton, and Mr. Wharton went like that (indicating) to me, in my direction, pointed to me.

Q. For the record, please say what he did. He was pointing with his fingers? A. Pointing with his fingers. Pointed back to where I was sitting, right directly at me, and Lentino left and went back where Mr. Pete Pantaleo was standing, and Altamura, Wolgast and several others were standing, and I said—I decided to go, so Mr. Gale happened to be sitting with me, so I said to Gale, "I am leaving."

So Gale and I, we walked out, and as I [1361] walked past, Mr. Pete Pantaleo went like this to the balance of the boys standing there (indicating)—

Q. Now, make that motion again. We have to describe it so that the Court can see it. A. As he walked out he went this way to the balance of the boys standing there (indicating).

Q. Motioning in your direction— A. Motioning in my direction as I am going out the door.

I got in the elevator, and there was a gentleman from upstairs must have come from one of the upper floors on the elevator, plus the elevator operator.

Q. Was the elevator operator male or female? A. Female.

Q. Go ahead. A. And we were standing there about a second, and I see this mad rush for the elevator, and the first thing I know the door was closed and Altamura said, "So you are a tough guy", he had his fingers out like that, about like he was to jab my eyes out when I stopped him from doing so.

Q. What did you do? A. I grabbed his fingers and bent his fingers back.

[1362] Q. Go ahead. A. About that time everybody else that was on the elevator was throwing punches.

Q. At who? A. At me.

I managed to get in the corner, and everybody was throwing punches and—

Q. Was there anything used besides fists? A. Yes, sir. I got brass knuckles right here on the jaw and brass knuckles directly on the ear, and I have a bad ear right today where I can't hear through that.

Q. Tell us what else happened on the elevator, will you please? A. Well, the fight went on, and they told me the elevator went up and down. The fellows that was outside, all they could do was to see the elevator needle coming up and going down.

Q. Did you see who was operating the elevator? A. Peter Bozzelli was operating the elevator.

Q. Peter Bozzelli? A. Yes, sir.

Q. Do you know who he was? A. Yes, sir.

Q. Who was he? [1363] A. He was a master mechanic for Conduit Foundation.

Q. Go ahead. A. During the course of the fight Mr. Lentino had me by the privates and held—

Q. Who had you by the privates? A. He had me by the privates.

Q. Who had you there? A. Mr. Lentino.

Q. Go ahead. A. And all he was hollering was, "Grab him by the nuts. Kill the son-of-a-bitch."

That's all he said, and he really hit below the belt.

Q. How many were there throwing punches or engaging in that? A. To my knowledge—

Q. In that assault? A. I don't know. It seemed like, well, there was no room in the elevator at all. I couldn't get no room whatsoever.

I had Mr. Altamura, I had him in a headlock and he bit me right on the side, and the next thing I knew, the elevator stopped at the sixth floor and they [1364] threw me out on the sixth floor where Mr. Pantaleo was standing when I came out of the elevator, and I turned around.

Q. Was that where the meeting was being held, on the sixth floor? A. The sixth floor, yes. I told Mr. Pantaleo that he was the cause of this.

Q. You told who? A. Mr. Pete Pantaleo.

Q. Go ahead. A. And he left, and he walked away from me, turned around and walked away from me, so I went over into the hall and went up to Mr. Wharton, and I told Mr. Wharton, and Mr. Wharton says that he don't want to be bothered with my personal affairs, it was none of his business, he don't want to be bothered with none of my personal affairs, and so I got up on the chair, I believe, and told the boys if this is what they want, if this is what they call union, why, they can have it, because I don't want no part of it.

I think I asked for six men to follow me down to the —down out of the elevator and down to the hospital, and I went to the Hahnemann Hospital from there.

[1365] Q. Did you recover from those injuries?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. To some extent. I have stomach trouble, plus I got a bad ear out of it, plus I lost all of my teeth. I lost every tooth in my head.

Q. When you say you have got stomach trouble, what do you mean, as a result of this? A. Yes, I had a blow on my stomach. The bruise is still there.

Q. From the fight? A. From the fight, yes, sir.

Q. Did you have these men arrested? A. Yes, sir.

Q. Do you recall who was arrested, who you had arrested? A. Pete Pantaleo, Hunter Wharton, Mr. Gaul, Frankie Lentino, Joe Altamura, Johnnie Wolgast. I think that's about all. I don't know.

* * * * * * * *

[1367] Q. Why did you stop working as an operating engineer? A. Well, the reason—

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Go ahead. A. The reason I stopped working as an operating engineer, I knew and was told that once I was

unemployed that is as much work as I would get, I wouldn't get no work after that.

Q. Who told you that? [1368] A. Gaul.

Q. Gaul did? A. Yes, sir, right on the Phoenixville job.

* * * * * * * * *

[1371] Q. Did Underwood know that you were going to that meeting? A. No, sir, he did not. Up until that time Underwood didn't even know I was on his side.

MR. O'BRIEN: That is all.

* * * * * * * *

[1372] NORMAN W. GALE, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. How old are you, Mr. Gale? A. 53.

Q. Where do you live? A. 2815 Jasper Street, Philadelphia.

Q. Are you married? A. Yes, sir.

Q. Any children? A. One.

Q. What is your occupation? A. Operating engineer.

Q. How long have you been working in that field? A. I have been in the union since 1947.

* * * * * * * *

[1375] Q. Did you participate in the strike that started in May of 1952, Mr. Gale? A. Yes, I did.

Q. Were you also working during that period? A. I was at Morrisville for most of the time of the strike.

Q. During that period did you also do any picket work? A. Yes, sir.

[1376] Q. Where? A. I used to go over the Seamen's Hall, and we would get in cars and go around and look the jobs over and see who was working and what was going on, and I also picketed at the Asphalt Paving Company up on Luzerne Street.

Q. In other words, you went around to the various jobs? A. Yes, sir.

Q. During the period of the strike, from May until early August, was there any substantial unemployment among the engineers that you could see from your being around on various jobs and talking to the different people, from your personal observation.

MR. O'BRIEN: That is objected to.

THE COURT: Overruled. He may answer.

A. Well, no, as far as I could see, there wasn't any. I know in Morrisville, if they figure you are going to be done a job today, they would have another one for you tomorrow. That happened once or twice to me. When I would finish a job, they would put me right over on something else. There seemed to be plenty of work around, as far as I knew.

Q. Did you have an opportunity to observe whether or not there was any unemployment among the other trades, [1377] building trades? A. Well, as I say, I was in Morrisville. That is the only thing I could judge from.

Q. What about these other jobs where you went around to picket? Could you see whether there was any evidence of unemployment among the other trades, during your travels?

THE COURT: If the job was picketed, I suppose it wasn't working. Does that make sense?

MR. FREEDMAN: Well, what I had in mind, sir, if there was unemployment, the men from the other trades might be around the jobs. That is the thought I had in mind. Perhaps I am in error, sir.

THE COURT: You can ask the question if you want to, but I am getting a little bored with this kind of testimony, Mr. Freedman.

MR. FREEDMAN: Well, sir, I didn't want to do it, but Your Honor will appreciate the nature of the action.

By MR. FREEDMAN:

Q. Mr. Gale, did you attend the meetings after supervision was invoked in August of 1952? A. For the most part, yes.

[1378] Q. Did you attend the meeting at which Mr. McCarty was in attendance, when he was assaulted?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Yes, I went to that meeting with McCarty. I met him on Broad Street as we were going in, and I went with McCarty.

By MR. FREEDMAN:

Q. Where were you seated in the hall with respect to Mr. McCarty? A. We were seated right together with our back to the wall.

Q. Now, will you tell us what you recall of your own knowledge of what occurred at that meeting?

MR. O'BRIEN: That is objected to, sir.

THE COURT: Overruled.

A. Well, as I say, McCarty and I were sitting together. Mr. Wharton opened the meeting, and we had noticed, I guess as everybody else did, that there were a lot of strange—well, not a lot—there were a few strange men in the room. There were two men standing right up alongside of Mr. Wharton on the dais, and we knew that there were some boys of Pantaleo's that had come in that had no right [1379] to be there, with A books. The meeting was called for the members of Local 542, and Jerry Leone, he was aware of that condition, too, and he asked the Chair to rule that everybody that didn't belong to Local 542 would please leave the meeting.

Mr. Wharton said, "We can't do that, we are not going to do that," but they did finally put out Wolgast and some other fellow—I don't know who the other one was—and there were a few of them shouting, "Sit down. Shut up. Let the meeting go on. Let them stay. What's the difference?"

But Mr. Leone wouldn't take that, and he still insisted that these strangers should leave the room, and Mr. Wharton, he wouldn't be without his bodyguard, so he said, "No, they will stay here. I am running the meeting."

MR. O'BRIEN: I move that that be stricken, sir.

THE COURT: It may be stricken.

By MR. FREEDMAN:

Q. Did Mr. Wharton have anyone with him who was not a member of the union, so far as you knew? A. Well, I saw these two men up there with their hands in their briefcases. I never saw them before. I have been [1380] to most of the meetings. Of course, you don't know everybody that comes to the meeting, but you know their faces.

Q. Did they remain in the room throughout the meeting? A. Yes, they did.

Q. Go ahead now. You continue. Tell us what happened. A. Well, Jerry Leone, he still insisted that we should go into, or requested that we go into, executive session. That would exclude everybody but members of Local 542, but Wharton wouldn't go for it.

So, in the meantime, Lentino, he was whooping and hollering, and Mr. Wharton was saying, "Go ahead talk, Frankie, go ahead talk. Give the floor to Frankie."

Of course, we didn't want Frankie to have the floor. We wanted these people excluded from the meeting so we would feel safe in going on with it.

So it finally come to the point where Lentino made a move towards McCarty. McCarty, of course, he was supporting the move to get these people out of the room. He was trying to get action on the executive session that Leone was advocating, and Lentino took it on himself to shut McCarty up.

So McCarty told him, he said, "No," he said, "they should go out." He said, "It is for the members of [1381] the local," he said, "and I think we should support Mr. Leone's contention that they should go out."

So Lentino, he made a move to attack McCarty, and

as he come towards McCarty, McCarty went to him, but that didn't come to anything—nobody got hurt there—but Wolgast, in the meantime, he had gained admittance to the union hall, and I saw him take a punch at McCarty, but he didn't hit McCarty.

So the membership still insisted that we should go into executive session, and Mr. Wharton, he said, "Well, we are not going into executive session. These men are with me. They are guests of mine. They are going to stay."

But then it got so loud that he finally closed the books, and we took that to mean that the meeting was over. I guess it lasted maybe ten or fifteen minutes, maybe a little longer.

So we sat there a while, and McCarty said, "Well, I guess that's the end of it, Gale. Come on, let's go."

I said, "Yes, we may as well," but while all this contention was going on on the floor, Lentino was making laps between Pantaleo and his gang at the door and Mr. Wharton and his people up on the dais. He made about [1382] three trips, and he did, he finally pointed at us like that (indicating), McCarty and I. He wasn't pointing at anybody else because nobody was there. Everybody cleared away from us as much as they could, within ten or fifteen feet. There was nobody near us. Then he shut the books up, closed the books, and started putting them away in his suitcase, briefcase.

So McCarty said, "Let's go," and we did. We went away, and Pantaleo and his wreckers were at the door, and as we went out—

MR. O'BRIEN: I didn't get that. Pantaleo and his what?

THE WITNESS: His wreckers.

MR. O'BRIEN: Wreckers?

THE WITNESS: Yes, body wreckers.

MR. O'BRIEN: I move that that be stricken, sir. In fact, I move that the entire answer so far be

stricken as not being responsive and as not constituting competent evidence.

THE WITNESS: I saw McCarty's body after they got through with him.

THE COURT: I will determine whether you are going to speak any more. Till I talk, don't you.

[1383] THE WITNESS: I am sorry, sir.

THE COURT: What was the question?

(The last question was read by the reporter, as follows:)

"Q. Go ahead now. You continue. Tell us what happened."

THE COURT: Mr. Gale, let me say this: Human beings are human beings. Let us keep them that way. Let us talk in terms of people as human beings.

Now, proceed with your answer.

A. Well, as I say, we went to the door, and as we went out, Pantaleo was there with his boys, and he pointed to us like this with his thumb (indicating).

So we went out in the hall, went over to the elevator. The elevator stopped, and the operator was in there, the girl, and a man that most likely come down from the floor above, and we got in, walked to the back of the elevator and turned around, and as we turned around, McCarty said, "Here they come."

So we saw a flying wedge of these people push everybody out of the road and jam into the car, that is, the people did. The last person to get in was Wolgast. I don't know how he got in—like an eel. Then somebody [1384] hollered, "Shut the door," and the girl shut the door. And somebody hollered, "Take it up."

So the elevator moved. It went up and down I don't know how many times, but, anyhow, Mr. Altamura, he led off. He said, "So you are the tough guy," and he went right for McCarty's eyes. So from then on it was just a snarling, screeching, biting, kicking, gouging mob of people.

I heard McCarty screaming, and I had moved along, I was lucky enough to have my back to the elevator wall, where it was a little smooth, and I elbowed and moved out trying to get the door open.

One of Mr. Wharton's men was there, and he had a death grip on the safety door—you couldn't open it—and they kept telling the girl, "Take it up. Take it down. Take it up."

So they finally stopped at the sixth floor and ejected McCarty, kicked him as he was going out, and the operator, the girl operator, got out at that floor too.

So they said, "Let's go down. Let's get out of it."

So Mr. Bozzelli took over the controls then. We went down to the mezzanine floor, and the door opened, [1385] and there was about five or six or seven of them left in there yet, and as we got out, Mr. Altamura again, he said, "We didn't work on this bastard yet."

So I didn't want them to work on this person, and I run, got through them and run. I ran for my life. I didn't want to get kicked to death there. So as I ran I looked over my shoulder, and Altamura said, "Run, you bastard, but we will get you later."

So I kept running till I got a policeman. I felt that my life was in danger, and I wanted to be able to tell what happened in the elevator, and I went to the station house and I called our office, and some of the boys come over, and then I went back to the office and home again.

By MR. FREEDMAN:

Q. Have you attended any other meetings? A. Yes, I have.

Q. During supervision? A. Yes, sir.

Q. That is, supervision since August of 1952? A. Oh, yes, most of them.

Q. Have you observed any particular group of men interfering with the conduct of the meetings?

[1386] MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Yes, I have.

By MR. FREEDMAN:

Q. Can you identify them?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Yes, I can.

By MR. FREEDMAN:

Q. Give them to us, will you, please. A. Well, for the most part, they center around Pantaleo, quite a few of them that were in the elevator. There is Lentino, Wolgast, Altamura, Jackson, Willie Jackson—he has another name—Zirpoli, and I don't know. There is more. I just don't know their names, but I know their faces. Some of them have a couple of names.

Q. Are they the same fellows or most of the same fellows who were in the elevator? A. Some of them.

Q. What do these people do in the course of the meetings?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

[1387] A. Well, for the most part, if you get up to ask a question or seek any information as to what's going on in the union and who is doing it and who is responsible for it and whether we can have a say about it or not, if it is in any way embarrassing to the people up front, they get up and they hurl abuse and filthy language and curse at you and tell you to sit down. I am mostly called that little yellow bastard, because I run away from them. That is what they call me, but other people, oh, the filth is terrible, what they say. I just couldn't be repeated here, I know that.

By MR. FREEDMAN:

Q. Did you see the Kaye incident at one of the other meetings? A. Yes, I did.

Q. Will you tell us what you saw, please.

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Well, it followed the usual procedure. Mr. Wolgast, he took it upon himself to abuse and quiet Bill Hogan. I believe he was asking something about the Welfare Fund or something, and he got very abusive, and this fellow Kaye got up and addressed Mr. Lavery, and he told Mr. [1388] Lavery, he said, "Why don't you stop this? Why don't you listen to what Hogan has got to say? We would like to know about this question too."

But Mr. Lavery, he just sat there and looked at him. He didn't do anything about it.

So one word led to another. So Wolgast, he finally attacked this Whitey Kaye.

Well, there was nothing much done in that. Whitey Kaye pushed him away. So finally it got quieted down and the meeting continued; and immediately when the meeting was adjourned I saw Wolgast make a flying leap for Whitey Kaye again. Then these people of Pantaleo's, they made theirselves evident. They grabbed Whitey Kaye. Zirpoli and Altamura kept hollering, "Stop the fight, stop the fight Take it outside."

And while they were holding Kaye, the rest are screening off. They stand around so you can't see what's going on. Wolgast was still punching and gouging at Kaye. So they roughed Kay to the floor backwards, and I saw him get kicked, but I couldn't say whose foot it was, they moved so fast, and, as I said, they screen off the operation. They all stand around and bend over so you can't see what's going on.

Mr. Lentino was there, Willie Jackson was there, [1389] Zirpoli, Altamura.

Q. Was Willie Jackson a parent body man? A. I don't know.

Q. Do you know who he is? A. Yes, I do. He has another name. I don't know what his other name is. I

don't think that is his right name, but that is the name he uses.

[1390] Q. Mr. Gale, have you talked to many members of Local 542 regarding these lawsuits and supervision and Mr. Underwood? A. Just about everybody that would listen to me.

Q. About how many, would you say? A. Well, I imagine it would go into the hundreds.

Q. Can you give us a little better estimate thatn that? How many would you figure you have talked to? A. Oh, I guess about 500 or more, at least 500.

Q. That is since supervision was imposed on August 19, 1952? A. Yes.

Q. Have they explained to you their desires and wishes regarding supervision in these lawsuits? Just answer yes or no. A. Yes.

MR. FREEDMAN: If the Court please, I make the same offer of proof here that I made with respect to the others, namely, that this witness will testify that those that he talked to do not want supervision, and they want Mr. Underwood reinstated, and are in favor of these lawsuits, of the object of these lawsuits, I should say.

[1391] MR. O'BRIEN: I make the same objection to the offer of proof, sir.

THE COURT: I sustain the objection.

By MR. FREEDMAN:

Q. Mr. Gale, have you been working steadily since supervision was imposed in—

MR. O'BRIEN: Objection.

By MR. FREEDMAN:

Q. In August of 1952?

MR. O'BRIEN: Objection.

THE COURT: Overruled.

A. Well, I was fortunate to be on a job—

THE COURT: The answer is yes or no.

By MR. FREEDMAN:

Q. Is it yes or no? A. Yes.

Q. You have been working— A. Pardon me? What was the question?

Q. Have you been working steadily since supervision was imposed in August of 1952? A. No, no, I haven't.

Q. How much time would you say you have lost from employment during that period?

[1392] MR. O'BRIEN: Objection.

THE COURT: Overruled.

A. Well, I finished at Cromby in September of 1955, and since that time, oh, I haven't worked 25 per cent of the time, I think.

Well, the best way to explain it is last year I filed my income tax, for 1956, and I had $2,300, where ordinarily I would make around six or eight thousand dollars.

MR. O'BRIEN: That is objected to.

A. (Continuing) I haven't done much for the last 15 or 16 months at all since I got out of Cromby.

By MR. FREEDMAN:

Q. Can you explain that loss of employment? A. Well, the only way I can explain it—

MR. O'BRIEN: Wait a minute, pardon me.

THE COURT: Your answer is either yes or no.

THE WITNESS: Yes, I can.

THE COURT: All right.

Now, what is the next question?

By MR. FREEDMAN:

Q. What is the answer?

MR. O'BRIEN: Objected to.

[1393] THE COURT: Overruled.

A. Well, when I was just about through at Cromby, I went to 9th and Noble and got a job, and the superintendent there, I knew him quite a while, and he had a

fellow that was going down to Indian River, and he says that when he goes down there, you take over, now you go over to him—they were having a little trouble—there was a little bug in the fuel feed, he said, and to tell Angelo—that was his name. I don't know his last name, but he says, "Tell Angelo you are going to take over after he goes."

"Well," I said, "I am right now working. I have a few more days work. I am working four to twelve, so any time you are ready for me, I can come."

He said, "You will have the job. As soon as he goes you will have the job, and I will get in touch with you, and you take over."

The next morning I went down, and he had another man on the job, and I asked about it, and he said that this fellow quit a little previously and Gaul put a man on.

I said, "Well, the job was mine." I said, "And I would like to know why that you can't give it to me. You want to give me the job. You did give me the job, why [1394] I can't have it."

So he said that he would take it up with his supervisor, and I went back to him.

By MR. FREEDMAN:

Q. Which supervisor? A. The superintendent's supervisor at personnel, I guess, the manager for the United Engineers, and he said, "I can't do anything, Norman." He said, "You have to clear through the Hall. You can't get hired this way through me. You have got to go to the Hall."

Q. Which Hall? A. The Union Hall.

So I tried to take it up with Mr. Wharton after that, but I couldn't get no satisfaction out of him except that if I didn't shut up I was going to get throwed out of the Hall.

MR. O'BRIEN: I move that that remark be stricken, sir.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Is that your explanation? A. And the fact that I have—I go to these meetings and try to get information as to our contracts and negotiations and what is being done with the welfare [1395] money, and how much is in there, and I have been—I have asked repeatedly about the defense fund, what has been done with it, is it still there or has it been put into the general funds of the union, but you get shouted down and told to "Shut up, you little bastard."

[1415] JAMES JOSEPH RUSSELL, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. How old are you, Mr. Russell? A. 43.

Q. Where do you live? A. 858 Almond Street, Philadelphia.

Q. Philadelphia. Are you married? A. Yes, I am.

Q. Any children? A. Two.

Q. What is your occupation? A. Operating engineer.

Q. How long have you been following that trade? A. Oh, since early in 1952.

* * * * * * * * *

MR. O'BRIEN: I can't hear you.

[1422] Q. When did you join the union? A. I joined the union in 1944.

Q. What branch did you join? A. I joined the B branch.

Q. B branch? A. That is right.

Q. Did you later on become a member of the parent body? A. I did.

Q. When? A. In February of 1948. May I add there, a couple of years I paid permit money. That was $2.50 a week.

Q. I can't hear you. A. I paid $2.50 a week from 1952 up until I got my book.

Q. That was when? 1948, did you say. A. No, from 1942 until May of 1944.

Q. Incidentally, were you a master mechanic on any of the jobs? A. I was for Freyn Engineering in Morrisville.

Q. You are a qualified master mechanic now? A. That's right.

Q. Did you participate in the strike which started in May of 1952? A. A little bit, I would say.

[1423] Q. By that you mean you picketed? A. Well, I was over at Levittown job for a while. I just don't know how long I was over there.

Q. Did you attend the June meeting on Spruce Street, that is, of 1952? A. Yes, sir.

Q. Do you recall what happened at that meeting? A. Yes, I do.

Q. Do you know who addressed the meeting? A. Mr. Underwood addressed the meeting.

Q. Did Mr. McDonald also address the meeting? A. Mr. McDonald also addressed it.

Q. And what did Mr. McDonald have to say?

MR. O'BRIEN: Objected to.

THE COURT: If he has any recollection, he may express it.

A. Well, Mr. McDonald, he got up there and told how the International was a hundred per cent in back of the strike, and there were some of the officers from the Maritime Trades Department there, and he thanked them for their help, that they were going to help to put pickets and stuff like that on jobs where we needed them.

Q. Did you attend the meeting on August 5, 1952, when Mr. Maloney's telegram was considered? [1424] A. Yes, I did.

Q. Do you recall what the action of the membership was at that time? A. Yes, I do.

Q. What was it? A. They rejected the proposal.

Q. Do you recall when supervision was again invoked on August 19, 1952? A. Yes, I do.

Q. Did conditions in the union change following imposition of supervision in August of 1952?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Yes, they did change.

By MR. FREEDMAN:

Q. Will you tell us what you know of your own knowledge, please, Mr. Russell.

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Well, of my own knowledge, on that Koppers job up there in Bethlehem I was discriminated against.

MR. O'BRIEN: That is objected to, sir. I move that it be stricken. It is a conclusion.

[1425] THE COURT: I will let him go on.

THE WITNESS: The business agent told the boss that I couldn't work on the job there.

MR. O'BRIEN: That is objected to as hearsay, sir.

THE COURT: I think a matter like that is susceptible of direct proof. I will sustain the objection. It may be stricken.

THE WITNESS: Is it all right for me to answer, Your Honor?

THE COURT: You have to get another question.

By MR. FREEDMAN:

Q. Were you permitted to work on the job? A. Yes, sir.

Q. Did you bring charges, as a result of that incident, before the Labor Board?

MR. O'BRIEN: Objected to.

THE COURT: Overruled. Go ahead answer it.

A. Yes, I did. I went to the Labor Board, and that's how I went to work up there.

By MR. FREEDMAN:

Q. Did the Labor Board render a decision in that case? A. They did.

[1426] MR. FREEDMAN: If the Court please, I have that decision. I would like to offer it. I don't have it handy. I have it back in the office, but I will produce it this afternoon. I assume it will not be necessary for me to subpoena the records from the Labor Board. I think probably Your Honor can take judicial notice of it.

THE COUT: Let me take a look at it.

MR. FREEDMAN: I will produce it this afternoon.

THE COURT: Very well.

By MR. FREEDMAN:

Q. What about at the meetings since supervision was invoked? Can you tell us whether there are any changes in the conduct of the meetings?

MR. O'BRIEN: Objected to.

THE COURT: I will overrule the objection.

A. Well, to my personal knowledge, I mean since we had supervision, they are not democratic meetings.

THE COURT: If it is necessary to draw a conclusion like that, Mr. Russell, I will do the drawing. You tell us the facts. You stated a conclusion with nothing to support it. You tell the facts, and I will draw the conclusions.

By MR. FREEDMAN:

[1427] Q. Well, tell us in what respect. A. Well, the assistant supervisor, Mr. Lavery, I heard him right there from the floor get up and talk about verbal agreements with the Langenfelter Company, which we already

had contracts with for 40-hour guarantee, and he was talking about a job up in King of Prussia, and he told the boys on that job that he knowed it was a pretty bitter pill for them to swallow, but that is the way they had to work. That is when they broke the 40-hour guarantee on that job, and I heard it discussed on the floor about—

MR. O'BRIEN: Excuse me, sir. May I have the answer read back? I could not hear the witness.

(The last answer was read.)

THE COURT: Go ahead.

THE WITNESS: Well, on that job there was Mr. Lavery, Mr. Gaul, and Mr. Denoncour, and this was discussed at the meeting about that, and this Reds Denoncour, I got up and I questioned him about, you know, what happened up there, and this one fellow by the name of Bouser, he is from Reading, Reds told him, he says, "You might as well go along with it because you can't eat your union book," and Reds denied saying it, but Bouser got up and told him, he said he was right there on the job when it happened.

[1428] MR. O'BRIEN: That is hearsay, sir, and I ask that it be stricken.

THE COURT: It may be stricken.

THE WITNESS: Well, I was working on this Walt Whitman Bridge, and they tacked notices up on the job that—we were working 120 foot in the air—that's where my machine was at—and they wanted everybody to be on their machine at eight o'clock, and said they were allowing us fifteen minutes at straight time.

So I brought that up on the floor, and Mr. Lavery told me that we would get double time, but a week or so later when we got paid, we got paid straight time, and I brought it up at the next meeting and I told Mr. Lavery about it, and he told me, he says, "No matter where your machine is at, if it is up in

the clouds, you still got to be on it at eight o'clock. They don't even have to give you any time."

Then I reported a lot of jobs. I worked on some of them in the Northeast where the contract was not enforced—

MR. O'BRIEN: Objected to, sir, and I move that it be stricken.

THE COURT: You may go on and elaborate if you care to, Mr. Russell. That statement taken alone [1429] means nothing.

THE WITNESS: Well, I worked on a job where there was no compressor men and no oilers, and the name of the contractor was Lever Brothers. I worked on that job, and a fellow by the name of Joe Doyle, he was on that job, and I asked him where his oiler was at. He was on a yard and a half Osgood, and he told me, "That's him over there. He is driving a truck."

MR. O'BRIEN: That is objected to, sir, as hearsay.

THE COURT: Overruled. Proceed.

THE WITNESS: I seen it, and he told me that the business agent knew what was going on on that job. That's Mr. Pantaleo.

THE COURT: Maybe he did.

THE WITNESS: That's what I was told.

MR. O'BRIEN: I make the same objection, sir.

THE COURT: I can weigh evidence, Mr. O'Brien.

MR. O'BRIEN: Sir, I didn't hear you.

THE COURT: It is not taken as proof of any fact.

MR. O'BRIEN: Yes, sir, but I still want the record protected.

[1430] THE COURT: Anything more?

THE WITNESS: Well, I got up on the floor at meetings and I told about a lot of jobs in the Northeast.

By THE COURT:

Q. How many times would you say, Mr. Russell, that you got up on the floor at meetings and told about these things?A. Oh, I would say three or four months right in a line I would talk about these same jobs, and nothing was done about them.

Q. You were permitted to express yourself on the floor, weren't you? A. Yes, but there was nothing done about it, I mean. I got up there one night, and Mr. Wharton and Mr. Lavery was there, and I asked Mr. Pantaleo, I told him, I says, "You are getting paid to do a job," and he said, "That's right."

"Well," I said to Mr. Wharton, "the man should be fired." I said, "He is not doing his job."

And nothing ever happened.

By MR. FREEDMAN:

Q. During the meetings do you know of any group of men who interfered with the conduct of the meetings? |1431| A. Yes.

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

By MR. FREDMAN:

Q. Who were the group of men? Do you recall who they were? A. I know most of them.

Q. How many were in the group? A. Oh, fifteen, twenty, maybe a few more.

Q. Can you name them? A. I can name some of them. I don't know all the names.

Q. Name as many as you can. A. Well, Dominic Mazzola, Willie Jackson, Petey DiPietro, Johnny Wolgast, Tony Zirpoli, Joe Altamura. Theres a lot.

Q. What about Lentino, was he a member of it? A. Frank Lentino.

Q. Now, in what way did these men conduct themselves at the meetings?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Well, they would holler and shout and curse and call you names, and stuff like that.

Q. Did you suffer any physical violence during supervision on the job? [1432] A. Yes, I did.

Q. When was that? A. That was in June of 1953 on the Koppers Company job.

Q. Tell us what happened.

MR. O'BRIEN: Objected to.

THE COURT: Overruled, till I see what it is about.

A. Well, the business agent, Mr. Pantaleo, came up on the job, and he told the superintendent that I had a man working there without a union book, and the superintendent called me off the crane and asked me if it was true, and I told him, I says, "I know the man has a receipt where he paid for his book, and he is just as good as being in the union. He has got everything paid for, and the fellow worked up in the Morrisville job on a permit before that."

So Pantaleo, he start cursing me out and calling me all kinds of names there, filthy names, on the job, and so I started cursing him back again, and he told me I wouldn't talk like that if I was outside that gate. I told him I would talk that way to him anywheres. So I walked out the gate and we had a battle out in the street.

[1433] By MR. FREEDMAN:

Q. Was he alone or was he with anybody? A. He had Joe Altamura with him. He was an ex-fighter too, this Mr. Pantaleo.

Q. Who was the ex-fighter? A. Mr. Pantaleo.

* * * * * * *

[1434] Q. Mr. Rusell, did you attend the meeting on supervision in Washington on August 26, 1952? A. Yes, sir.

Q. Will you tell us what happened at that meeting, please? A. Well, most of the business agents—it was Colombo Acchione and Mike Concordia, we went down there,

and we went up to a room up in this here office of the International in Washington, and Mr. Carter opened the meeting, and Mr. Thomas took over right after that and start questioning Mr. Underwood about how much money he spent on the Maritime Trades Department.

I can't recall all what he asked him. He asked him a few questions there. I just don't know word for word what he said.

[1435] And Mr. Underwood refused to answer, and he wanted a stenographic typist there to take the proceedings of what was going on, and he was refused, and Mr. Underwood refused to answer any questions there, and Mr. Thomas, he asked me a question. I don't even know what it was about. I mean I can't think of what it was, and I told him I refused to answer anything either without a stenographic type of what went on.

He wanted to know where I worked and what I done, like he was real mad at me; and he questioned Pete Pantaleo, something about the Freyn job up in Morrisville.

Mr. Brightbill, he said a couple of words there. The meeting didn't last very long.

Q. How long? A. Oh, it was less than a half hour.

Q. Did you also attend the meeting on New York on the charges against Mr. Underwood? A. Yes, sir.

Q. Where was that meeting held? A. Commodore Hotel in New York.

Q. That was on September 19, 1952, was it? A. Somewheres around there.

[1436] Q. Did you see Mr. Halloran there at that time?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Well, I didn't know Mr. Halloran. Somebody pointed, "There's Mr. Halloran over there."

By MR. FREEDMAN:

Q. What happened inside the meeting? Tell us what you remember of your own knowledge. A. We went into

the meeting. There was all the general vice-presidents there, and Mr. Maloney, Mr. Thomas, and there was quite a few members with Mr. Underwood; and Mr. Maloney opened the meeting and he handed the chair over to this Mr. Joseph Delaney. Then he said what the meeting was for, about the charges against Underwood and stuff.

Mr. Thomas, he start reading the charges off, and after he got through reading the charges off, Mr. Underwood, he read from his papers, his answers to the charges.

Then each one in there got up and said something. I remember Mr. Maloney, he come back last and told them about all he wanted to do was get this strike settled and come to an agreement. He talked about [1437] 6500 men out of work, and that's about all I can recall.

Q. Did Mr. Underwood ask for counsel at that time, at that meeting? A. Mr. Underwood asked for counsel at that meeting, and he asked for a stenographic typist there.

Q. Were those requests granted? A. No.

* * * * * * * *

Q. Have you spoken to many members of the union since [1438] August of 1952 regarding supervision and regarding these lawsuits? A. I have.

Q. Have you discussed with them whether or not they want supervision and want Mr. Underwood? A. I have.

Q. About how many men would you say you spoke to? A. Oh, in four and a half years I must have spoke to 2000 members of this local.

MR. FREEDMAN: If the Court please, I make the same offer of proof I made heretofore. I offer to prove by this witness that the men that he spoke to will say that they do not want supervision.

THE COURT: That he will say what they would say.

MR. FREEDMAN: That is what I mean, sir. This witness will say that they do not want supervision, they want Mr. Underwood restored, they want autonomy, and they are in favor of these lawsuits, that is, of the object of these lawsuits. I should say.

MR. O'BRIEN: Objected to.

THE COURT: I sustain the objection.

* * * * * * *

[1439] Q. Mr. Russell, yours was one of six cases that were considered by the Labor Board? A. Yes.

Q. Was it not? A. Yes, sir.

MR. O'BRIEN: Would Your Honor indulge us for just a moment?

THE COURT: All right.

MR. FREEDMAN: Will you mark this as the next exhibit, please?

(A copy of findings of the trial examiner before the National Labor Relations Board in re case No. 4-CB-215, et al., was marked for identification as Exhibit P-82.)

MR. FREEDMAN: Your Honor, Exhibit P-82 is a copy of the findings of the trial examiner before the National Labor Relations Board involving cases Nos. 4-CB-215, 239 and 4-CA-1102, 4-CB-218, 4-CB-246 and 4-CB-251.

[1442] DOROTHY BARONETT, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. Mrs. Baronett, you were married to James V. Baronett? A. That's right.

Q. He is dead now? A. Four years.

Q. When did he die? A. November 21.

Q. Can you raise your voice a little bit, please? A. November 21.

Q. Of 1956? A. That's right—no, he is dead four years.

Q. Just four years? A. It will be five this coming November.

Q. I see.

THE COURT: It would be November of 1952 then?

[1443] A. That's right, Your Honor.

By MR. FREEDMAN:

Q. Now, before his death was your husband a member of Local 542 of the Operating Engineers? A. That is right.

Q. How long had he been a member of that union? A. About 26 or 27 years.

Q. Had he been an officer in the union at one time? A. That's right.

Q. Now, shortly prior to the strike of the operating engineers in May of 1952 was your husband active? Was he working? A. No. he was sickly, but he had a little spare job at that place out at 48th and Chester Avenue.

Q. Keep your voice up a little bit, please. A. 48th and Chester Avenue. He was running a compressor out there, and he stopped. He was too sick to carry on. That was right before that strike came about, I think, or afterward.

Q. What was the condition of his health prior to— A. He had a heart condition.

Q. Prior to May of 1952, he had a heart condition? A. That is right.

[1444] Q. Now, do you know of your own personal knowledge whether he became involved in the strike that started on May 2, 1952, between the operating enginers and the Contractors Association? A. Yes, he did get involved in it.

Q. Will you tell us how he became involved?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Can you tell us how he became involved? A. It just came about that there was different fellows came to the house about the strike, and he in turn—the fellow I am talking about—

Q. Which fellows came to the house? A. Pete Bozzelli and Frank Pitetti.

There were quite a few on that conduit job in West Manayunk, so they worked for Mr. Halloran, and Mr. Halloran came to the house, and through his interceding for Jim, he came to the house—

Q. Would you keep your voice up a little bit? I am having difficulty hearing you.

May I move closer to the witness, Your Honor?

MR. WOLFE: We would like to hear, too.

[1445] THE COURT: I think you better sit back there, and we will try and make sure that you hear.

Keep your voice up, please, so that everyone can hear you.

THE WITNESS: I will try to speak louder, but I am very nervous, Your Honor.

THE COURT: Take it easy. There is nothing to be nervous about.

THE WITNESS: I realize that.

By MR. FREEDMAN:

Q. Go ahead, please. A. Mr. Halloran came to the house on a Sunday afternoon and had made—

Q. Can you give us the date of that? A. Well, could it be in around May when that strike took effect? I don't want you putting words in my mouth, but I am confused, too.

Q. Give us your best recollection. A. I would say the end of May.

Q. Of 1952? A. That's right.

Q. Now, can you tell us what you know of your own personal knowledge, please? A. So it was arranged that they would try to—the [1446] money was transacted from Mr. Halloran—

MR. O'BRIEN: That is objected to. I move that the answer be stricken.

THE COURT: Read the answer to be. I didn't hear it.

(Answer read.)

THE COURT: I will allow the motion to strike.

[1447] By MR. FREEDMAN:

Q. Did you sit in the conference with your husband and Mr. Halloran?

MR. O'BRIEN: Objected to, sir, as immaterial and irrelevant to the issues in this case.

THE COURT: Objection overruled. Proceed.

By MR. FREEDMAN:

Q. Do you understand the question, Mrs. Baronett? A. I guess I am trying to.

Q. Well, I will repeat it. Did your husband and Mr. Halloran have a conference on that day? A. They did, in my living, our living room.

Q. Were you there? A. I was there, yes.

Q. Did you attend that conference yourself? A. I stayed in the room for a certain period of time, and then I left the room, and just my husband and Mr. Halloran were in that room together.

Q. You tell us what you heard, will you, please, and saw. A. Do you know a Mr. Masterson, a lawyer?

Q. Just tell us what you heard and saw of that conference. I mean, what did Mr. Halloran say to your [1448] husband and what did your husband say? A. He would give him substantial funds to try about the strike.

MR. O'BRIEN: That is objected to, sir.

By THE COURT:

Q. Did you see it? A. Yes, Your Honor, I did.

MR. FREEDMAN: To try and what, did you say? Will you repeat that answer, Mr. Reporter?

(The reporter read as follows:)

"A. He would give him substantial funds to try about the strike."

By MR. FREEDMAN:

Q. Now, you tell us what was said between them, everything that you remember that was said between them at that time. A. He said that he would continue giving him money every week to have Pete Bozzelli and Frank Pitetti to work for him.

Q. Who wah saying that? A. Mr. Halloran was saying that to Jim.

J. Jim is your husband? A. That's right. See, Pete Bozzelli and Frank Pitetti worked for the Conduit. That is Mr. Halloran. They [1449] automatically went off of the payroll when that strike came about, so therefore they went—it is not really listed that the money was given that way. It's like miscellaneous.

Q. How long did that conference last between Mr. Halloran and your husband? A. I would say about six weeks, six or seven weeks.

Q. I mean the conference. A. Oh, I would say about an hour, an hour and ten minutes, something like that.

Q. Did you hear Mr. Halloran say why he wanted your husband to get into the strike?

MR. O'BRIEN: That is objected to, sir.

THE COURT: I will sustain the objection.

By MR. FREEDMAN:

Q. Now, following that did you receive any money as a result of that arrangement that was made?

MR. O'BRIEN: Objected to.

THE COURT: I will overrule the objection if it is properly established, Mr. Freedman.

MR. FREEDMAN: I am going to, sir, right now.

By MR. FREEDMAN:

Q. Did you receive any money from any source at that [1450] time pursuant to that arrangement that was made between Mr. Halloran and your husband?

MR. O'BRIEN: Objected to.

A. That's right, that's right.

THE COURT: I will let her answer it yes or no.

THE WITNESS: I did, Your Honor.

By THE COURT:

Q. All right. Whom did you receive it from? A. Mr. Halloran.

Q. He paid it directly to you? A. He had Pete Bozzelli to bring the money to my husband.

THE COURT: Then the objection is properly taken, and the answer may be stricken.

By MR. FREEDMAN:

Q. Did you get any money from any source following Mr. Halloran's visit to you?

MR. O'BRIEN: Objected to.

THE COURT: I will overrule that objection.

By MR. FREEDMAN:

Q. You can answer that, Mrs. Baronett. A. You mean did I receive any money after that one time?

[1451] Q. Yes. A. I didn't.

Q. After that meeting with Mr. Halloran did you or your husband receive any money that you know about? A. Yes.

Q. What did you do with that money? A. It was put to bank.

Q. What bank was it put into? A. Central-Penn.

Q. Do you have the deposit slips? A. I do.

(Deposit slips of the Central-Penn National Bank were marked Exhibits P-83 to P-92 inclusive for identification.)

THE COURT: What do they purport to be?

MR. FREEDMAN: P-83 is a deposit slip dated June 9, 1952, showing a deposit of $517.75.

THE COURT: Central-Penn National Bank?

MR. FREEDMAN: Central-Penn National Bank, sir.

P-84 is a deposit slip dated June 19, 1952, for $500.

P-85 is a deposit slip dated June 20, 1952, in the amount of $500.

[1452] P-86 is a deposit slip dated July 3, 1952, in the amount of $500.

P-87 is a deposit slip dated July 21, 1952, in the amount of $1000.

P-88 is a deposit slip dated July 24, 1952, in the amount of $500.

P-89 is a deposit slip dated August 8, 1952, in the amount of $500.

P-90 is a deposit slip dated September 15, 1952, in the amount of $100.

P-91 is a deposit slip dated September 24, 1952, in the amount of $400.

P-92 is a deposit slip dated September 30, 1952, in the amount of $400.

By MR. FREEDMAN:

Q. Mrs. Baronett, I show you these deposit slips marked Exhibits P-83 through P-92 and ask you whether these are deposit slips which you obtained after depositing the money in the bank.

MR. O'BRIEN: Objected to. If Your Honor please, the deposit of this money has not been properly established on the record; therefore such testimoney coming from this witness is improper.

[1452] THE COURT: I would assume that this is only a link in the chain, and if it does not become relevant, it won't be in the record by the time this case is over. We can only take one step at a time.

THE WITNESS: That's right.

By MR. FREEDMAN:

Q. Will you answer that question, please. A. Yes.

Q. Did you deposit the moneys reflected on those deposit slips in the bank on the dates indicated? A. That's right.

MR. O'BRIEN: Objection.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Now, where did you get those moneys, Mrs. Baronett?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Will you tell us where you got the money, please. A. Where did I get the money?

Q. Yes. A. From Mr. Halloran.

Q. From whom? [1454] A. Mr. Halloran.

Q. Well, now, tell us who personally gave it to you. A. Oh, Pete Bozzelli.

Q. Was he alone or was there anybody else? A. He used to always come himself with it. In fact, he went over to the office to get it.

Q. Did anyone else from any other contractors association give you any of the money? A. It all came through—the different contractors gave to the different ones.

MR. O'BRIEN: That is objected to, sir. I move that the answer be stricken.

THE COURT: It may be stricken.

By MR. FREEDMAN:

Q. Now, what I want to find out is who these different people are who gave you the money personally. A. I have to think.

[1455] Q. You have already stated that Peter Bozzelli gave you— A. That's right.

Q. —some money? A. Yes.

Q. Who else besides Peter Bozzelli actually brought you money? A. I don't remember their names, and I would be foolish saying here something if I don't remember it myself.

Q. When they gave you the money, did they identify themselves? A. They never gave it to me. They gave it

to Jim in an envelope with their name on the envelope, at the top of the envelope. It was a business envelope.

Q. Do you recall what the names were? A. And the amount would be on that envelope.

Q. Do you recall what the names were?

MR. O'BRIEN: Objected to.

A. Buckley—

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Go ahead. A. Buckley, Halloran. Of course, Conduit and Halloran are the same person, and Morrissey—

Q. How about Lawrence? [1456] A. Mr. Lawrence.

Q. Who it Mr. Lawrence? A. Mr. Lawrence is—was at one time a silent partner with Mr. Morrissey.

MR. O'BRIEN: That is objected to, sir.

THE COURT: Mr. Freedman, I don't like the way this testimony is going. There is entirely too much hearsay in here which I as an experienced lawyer can tell you I am not going to permit. I am not going to permit this to be established of record by this kind of testimony.

MR. FREEDMAN: I am trying to restrict it to her own personal knowledge, Your Honor.

THE COURT: Then let's keep it of her own personal knowledge. There is so much hearsay involved, and I want to say that I am not going to restrict you in the slightest degree on proper proof, but I am certainly not going to permit something like this to slide in the back way with things that might be susceptible of proof by legal means, but there has been a lot of testimony put on this record in the last ten minutes that I would strike on motion, except that I am leaving it there to let you produce evidence of the truth of what this lady is saying that clearly she can't establish.

MR. FREEDMAN: I am going to follow this up

[1457] with other documentary evidence which will support what she says.

THE COURT: That is all right. Let's do it, and let's not slide it in by oral testimony this way. I won't permit either side to introduce that kind of testimony on important matters.

By MR. FREEDMAN:

Q. Mrs. Baronett, what I would like you to tell us is the names of the individuals as closely as you can remember who actually brought the money in. You have already said Peter Bozzelli. A. That's right.

Q. This Mr. Lawrence that you are talking about, did he personally bring any money in? A. No.

Q. Who did? A. I am telling you Pete Bozzelli was the main one on getting it from the different ones.

Q. How do you know that? A. I was there all of the time. A man that takes spasms of the heart, I never left him alone.

Q. Did you talk to Bozzelli about it? A. Pete Bozzelli used to come to the house every morning at 9:00 o'clock, him and Frank Pitett.

[1458] Q. What part did Mr. Bozzelli play in this arrangement?

MR. O'BRIEN: Objected to.

THE COURT: Sustain the objection.

By MR. FREEDMAN:

Q. You have testified before, Mrs. Baronett, that Mr. Bozzelli and Mr. Pitetti were going to help Mr. Baronett; is that right? A. That is right.

Q. Did they help Mr. Baronett?

MR. O'BRIEN: Objected to.

THE COURT: Overruled. We are asking for facts now. I will overrule the objection.

By MR. FREEDMAN:

Q. Did they help Mr. Baronett? A. Yes.

Q. Just what did they do that you know of personally?

MR. O'BRIEN: That is objected to.

THE COURT: Overruled.

THE WITNESS: I don't know whether to go on or or not when it is overruled.

MR. FREEDMAN: The Judge has ruled that you may go on.

THE WITNESS: Your Honor, I am very sorry, but this is my first offense to be in a place like this, and [1459] I am upset.

THE COURT: Take it easy. We are not here to upset you, but there are certain rules of evidence that are put in, and they are centuries old, for the protection of every citizen of this country.

THE WITNESS: I realize that, Your Honor.

THE COURT: And I intend to enforce them impartially between all litigants that appear before me.

You were asked what did Bozzelli, or whatever his name is, and the other name that you mentioned—I can't pronounce it—

THE WITNESS: Pitetti.

MR. FREEDMAN: Pitetti.

THE COURT: Was it Pitetti?

THE WITNESS: Pitetti.

THE COURT: You said they helped your husband.

MR. FREDMAN: Your Honor—

By THE COURT:

Q. Tell me the facts of their helping. What did they do? That is the question that Mr. Freedman asked you that you don't seem to be able to quite comprehend.

What did they do to help your husband? A. Well, from my knowledge of going out when the strike was on—I don't know. I don't really know what they did. [1460] I wasn't with them when they went out and done any-

thing. I don't know what they done, but I know he paid them for doing it for him.

Q. Who paid what? A. Well, the money was put to the bank.

Q. All right. A. And he automatically made the checks out to them.

Q. Jim is your husband? A. That is right.

Q. He drew the checks against the bank account? A. That's right.

Q. I assume you came into possession of those checks after his death? A. Yes.

MR. FREEDMAN: I have them here, Your Honor.

By THE COURT:

Q. Did you write out any of these checks for him? A. He wrote his name, and I wrote the names out for him.

Q. That is exactly what I want. A. That is what I did.

Q. So what they did on the outside, you do not— A. I don't know, Your Honor.

Q. Suppose you met me finish first, please, Mrs. Baronett.

So what they did on the outside you do not know, [1461] but you did assist your husband in so far as his bank account is concerned by filling out the date of the check, the payee of the check, and the amount of the check? A. That's right.

Q. Is that it? A. That's right, Your Honor.

THE COURT: Now, to that extent of what you know, you may tell us, Mrs. Baronett.

Go ahead, Mr. Freedman.

MR. FREEDMAN: Will you mark these checks as exhibits?

(A group of checks were marked for identification as Exhibits P-93 to P-107, inclusive.)

MR. FREEDMAN: P-93 is a check drawn on

the Central-Penn National Bank, dated June 6, in the amount of $258.50, to the order of Frank Pitetti, signed by James V. Baronett, indorsed on the back by Frank Pitetti and a Charles R. Lanni.

P-94 is a check dated June 17, 1952, drawn on the Central-Penn National Bank to the order of Frank Pitetti, in the sum of $100, signed by James V. Baronett.

MR. O'BRIEN: If Your Honor please, I don't to appear extremely technical, but there is no evidence that James C. Baronett signed any of them.

[1462] MR. FREEDMAN: I can have it identified as we go along.

By MR. FREEDMAN:

Q. Let's go back to P-93. Mrs. Baronett, I show you P-93, and I ask you whether you recognize that check. A. Positively.

Q. Who made out that check? A. That is my handwriting, and that is my husband's (indicating).

Q. You mean your husband signed it? A. That's right.

Q. And all of the other writing on the check is yours? A. That is mine up here (indicating).

Q. I see.

Do you know of your own knowledge whether this was given to Frank Pitetti? A. Yes, in my presence.

Q. I show you P-94 and ask you to identify that check, please. A. Same thing.

Q. Whose signature does that check bear? A. James Baronett.

Q. Is that your husband's signature? A. That's right.

[1463] Q. Who made out the rest of the check? A. I did.

Q. I show you P-95, and ask you to state to whom it is made payable and for how much, and who signed it? A. Mr. Pitetti, $150, and Jim signed it.

Q. It is signed by your husband? A. That's right.

Q. Dated June 25, 1952? A. That's right.

Q. P-96 is a check dated July 3, drawn on the Central-Penn National Bank, to the order of Frank Pitetti in the amount of $150, bearing the signature of James V. Baronett.

Mrs. Baronett, I ask you to examine that check and state whether or not that is your husband's signature. A. Absolutely.

Q. Who made out the rest of the check? A. I did.

Q. P-97 is a check dated July 10, drawn on the Central-Penn National Bank—that is July 10, 1952—to the order of Frank Pitetti, in the sum of $150, bearing the signature of James V. Baronett.

Mrs. Baronett, I ask you to state whether or not that is your husband's signature? [1464] A. It is.

Q. Who made out the rest of the check? A. I did.

Q. P-98 is a check dated July 18, 1952, drawn on the Central-Penn National Bank in the amount of $150 to the order of Frank Pitetti, bearing the signature of James V. Baronett.

Mrs. Baronett, I ask you to state whether or not that is your husband's signature? A. It is.

Q. Who made out the rest of that check? A. I did.

Q. P-99 is a check dated July 18, 1952, to James Masterson in the amount of $1000, bearing the signature of James V. Baronett. Is that your husband's signature, Mrs. Baronett? A. That's right.

Q. Who made out the rest of the check? A. I made the rest of it.

Q. P-100 is a check drawn on the Central-Penn National Bank dated July 26, 1952, to the order of Pete Bozzelli, in the amount of $150 bearing the signature of James V. Baronett.

Mrs. Baronett, I ask you whether that is your husband's signature. A. It is, it is.

[1465] Q. Who made out the rest of the check? A. I made the rest of the check.

Q. P-101 is a check drawn on the Central-Penn National Bank, dated July 26, 1952, to the order of Frank Pitetti, in the amount of $150, bearing the signature of James V. Baronett.

Mrs. Baronett, I ask you to state whether or not that is your husband's signature? A. That is right.

Q. Who made out the rest of the check? A. I made the rest of the check.

Q. P-102 is a check dated July 10, 1952, drawn on the Central-Penn National Bank to the order of Pete Bozzelli in the amount of $150 bearing the signature of James V. Baronett.

Mrs. Baronett, I ask you to state whether or not that is your husband's signature. A. That's right.

Q. Who made out the rest of the check? A. I made the rest out.

Q. P-103 is a check dated July 18, 1952, to the order of Pete Bozzelli, drawn on the Central-Penn National Bank in the amount of $150, bearing the signature of James V. Baronett.

Mrs. Baronett, I ask you to state whether or not that is your husband's signature. [1466] A. That's right.

Q. Who made out the rest of the check? A. I made the rest out.

Q. P-104 is a check drawn on the Central-Penn National Bank, dated August 1, 1952, to the order of Pete Bozzelli in the amount of $150, bearing the signature of James V. Baronett.

Mrs. Baronett, I ask you to state whether that is your husband's signature. A. It is.

Q. Who made out the rest of the check? A. I did.

Q. P-105 is a check dated August 1, 1952, drawn on the Central-Penn National Bank to the order of Frank Pitetti in the amount of $150, bearing the signature of James V. Baronett.

Mrs. Baronett, I ask you to state whether that is your husband's signature? A. It is.

Q. Who made out the rest of the check? A. I did.

Q. P-106 is a check dated August 9, 1952, drawn on the Central-Penn National Bank to the order of Frank Pitetti in the sum of $150, bearing the signature of James V. Baronett.

Mrs. Baronett, can you state whether that is [1467] your husband's signature? A. It is.

Q. Who drew the rest of the check? A. I drew the rest of it.

Q. P-107 is a check dated August 9, 1952, drawn on the Central-Penn National Bank to the order of Pete Bozzelli for $150, bearing the signature of James V. Baronett.

Mrs. Baronett, I ask you to state whether that is your husband's signature? A. It is.

Q. Who drew the rest the the check? A. I did.

[1468] By MR. FREEDMAN:

Q. Mrs. Baronett, following that first conference between Mr. Halloran and your husband, did Mr. Halloran ever come to your house? A. After that, no.

Q. Do you know of your own personal knowledge whether he communicated with your husband following that conference?

MR. O'BRIEN: Objected to.

THE COURT: She may answer. Overruled.

A. On telephone.

By MR. FREEDMAN:

Q. How would you know? Did you hear the conversation? A. Well, when the phone would ring, he would say that he was Mr. Halloran, wanted to talk to Jim.

Q. And you would answer it? A. And Jim would get on the phone.

MR. O'BRIEN: That is objected to, if Your Honor please. I move the answer be stricken.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Over what period of time or how frequently would Mr. Halloran call?

[1469] MR. O'BRIEN: Objected to.

THE COURT: When she received a call from a Mr. Halloran.

By MR. FREEDMAN:

Q. When you received a call, yes. Thank you, sir. A. When I would receive it?

Q. Yes. A. Oh, you mean like when he would call?

Q. Yes, and you would answer the telephone. I want only your personal knowledge, what you know of your own personal knowledge. A. I wouldn't hear the conversation that went on.

Q. When you answered the phone. A. He would say he was Mr. Halloran calling.

Q. How often would that happen? A. On the average of once a week.

Q. Over what period of time did that extend? A. Oh, that only extended a couple, about three weeks.

Q. Did you overhear any of the conversations between your husband over the telephone during those occasions? A. Talking about the new charter they were going to receive.

MR. O'BRIEN: I think that should be answered yes or no.

[1470] THE COURT: Yes, I think it should be answered yes or no.

By MR. FREEDMAN:

Q. Did you hear any of the conversations that your husband carried on during those occasions? A. About this new charter they were talking about.

Q. Did you hear the conversations? Just answer yes or no. A. Just one or two words about it, not too much about it.

Q. Would you be in the room when your husband was speaking to him? A. Not the majority of the time.

Q. Well, on many of the occasions did you remain in the room and listen to the conversation? A. On one or two occasions I did.

Q. And do you recall what the conversation was about?

[1471] "A. On one or two occasions I did.

"Q. And do you recall what the conversation was about?

"(No answer.)"

By MR. FREEDMAN:

Q. Are you able to say whether the conversations related to the strike?

MR. O'BRIEN: That is objected to, sir.

THE COURT: Now, Mr. Freedman, you know better than to ask that question.

MR. FREEDMAN: I will withdraw it, sir. I am sorry, sir.

THE COURT: All right. We will take a recess at this time.

(A short recess was taken at 2:50 P. M.)

By MR. FREEDMAN:

Q. Mrs. Baronett, did you participate or assist your husband in connection with his activities at that time?

MR. O'BRIEN: Objected to.

THE COURT: That is completely leading. I will sustain the objection.

By MR. FREEDMAN:

Q. Mrs. Baronett, did you get involved in the strike at that time?

[1472] MR. O'BRIEN: Objected to.

THE COURT: Overruled. You may answer, Mrs. Baronett.

A. Did I get in the strike?

By MR. FREEDMAN:

Q. Did you get involved in it? A. No, I wouldn't say I did.

Q. Did you do anything about it? A. No.

Q. Mrs. Baronett, did your husband give out some press releases during that period?

MR. O'BRIEN: Objected to.

A. Yes.

By MR. FREEDMAN:

Q. Do you know who drew those or prepared those press releases?

THE COURT: I overrule the objection.

A. The printing place in Roxborough wrote those things.

By MR. FREEDMAN:

Q. Do you know who prepared them, who composed them? A. I helped on that.

Q. Who else besides you? A. Just myself and him, Jim.

Q. And where did you get the information for those [1473] releases?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Well, Jim was very smart in the business, in the International.

Q. Pardon me? A. In the International work, the union. He was very, very smart on those things, and he had a lot of knowledge about it, even if he did have a heart condition, so, naturally, just because his speech was a little bit defective, it didn't say that his mind wasn't alert.

Q. What I am asking you is, where did he get the information to give out in these press releases. A. Well, to begin with, he knew an awful lot, as I said, and he used to quote different things from the Inquirer, what you would see in the little write-ups on the editorial sections, using different phrases, and from that he would piece together and compose that literature.

Q. Let me ask you this, did different people come around from time to time and talk to your husband? A. Yes.

Q. Who were they?

MR. O'BRIEN: Objected to.

By MR. FREEDMAN:

[1474] Q. I mean about this strike.

MR. O'BRIEN: The same objection.

THE COURT: I again suggest that yor are leading this witness pretty thoroughly at this juncture, Mr. Freedman. I will overrule this objection, however, and let you on from there.

THE WITNESS: Should I go on?

By MR. FREEDMAN:

Q. Yes, who were they? A. Well, different men from the union, different workmen.

Q. Well, will you please name them. A. Now, isn't that something! I am trying, and the head won't work.

Q. Please do. A. John—I can't think of them. It's no use of me saying I can. Right now I can't. When I get off of here, I will be able to remember them.

By THE COURT:

Q. Well, have you given Mr. Freedman a statement about this before? A. Yes, I did.

MR. FREEDMAN: Would Your Honor like to see it?

THE COURT: Yes. I am not going to read it.

MR. FREEDMAN: Page 28 is the specific page [1475] which refers to that, sir.

THE COURT: Well, the names I see here—and this is subject to objection and exception to the defendants here, to all of them—I see the names of Bozzelli, Pittetti, Lee, Lentino, Gaul, and Narducci.

THE WITNESS: That's right, Your Honor.

By MR. FREEDMAN:

Q. After the strike did your husband make any claim for any further monies from Mr. Halloran?

MR. O'BRIEN: Objected to.

A. Yes, he did.

THE COURT: Overruled.

THE WITNESS: He did.

By MR. FREEDMAN:

Q. What claim did he make?

MR. O'BRIEN: The same objection, sir.

THE COURT: The same ruling. Overruled.

A. It was four thousand something.

By MR. FREEDMAN:

Q. Were you paid any money following that? A. No.

Q. Was a settlement made?

MR. O'BRIEN: Objected to.

THE COURT: I will overrule the objection.

[1476] A. Yes, there was, Your Honor.

By MR. FREEDMAN:

Q. How much was the settlement? A. $4,000.

MR. FREEDMAN: Cross-examine.

MR. O'BRIEN: If Your Honor please, I move that the testimony of this witness be stricken.

THE COURT: I will overrule it at this time, with permission to renew the motion later.

CROSS-EXAMINATION

By MR. O'BRIEN:

Q. Are you here under subpoena, Mrs. Baronett? A. I was, yes.

Q. You were subpoenaed to come here? A. That's right.

MR. O'BRIEN: That is all.

JAMES J. REGAN, JR., having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. Mr. Regan, were you retained by Mr. Baronett in his lifetime in connection with a claim against Mr. Halloran? [1477] A. Yes, sir.

Q. Did you address a communication to Mr. Halloran indicating your representation? A. Yes, sir.

Q. I think I neglected to ask you, you are member of the Bar of Philadelphia County? A. Yes, sir.

Q. How long have you been a member of this Bar? A. 36 years last Thursday.

MR. FREEDMAN: Mark this, please.

(Letter from James J. Regan, Jr., to Mr. Harry R. Halloran, dated October 15, 1952, was marked Exhibit P-108 for identification.)

MR. FREEDMAN: P-108 is a photostatic copy of a letter from Mr. Regan, addressed to Mr. Harry R. Halloran, dated October 15, 1952.

By MR. FREEDMAN:

Q. Mr. Regan, do you have the original of that letter? A. No. The original obviously went to Mr.—

Q. I show you P-108 and ask you whether that is a photostatic copy of the letter which you sent to Mr. Halloran. A. Yes, October 15. That's my signature.

[1478] Q. Does it have an attachment to it? A. Yes, it does. It is a bill.

Q. Will you examine the attachment and see whether or not that is a copy of the attachment that you enclosed with your letter. A. Yes, sir, it was a bill to the Contractors Association.

MR. O'BRIEN: Excuse me, sir. Just identify it, please.

Will Your Honor restrict the witness to answering that question.

THE COURT: He has said it is a copy of the attachment. That is as far as we can go at this moment.

Proceed, Mr. Freedman.

By MR. FREEDMAN:

Q. Now, will you read the letter and the attachment to the Court, please.

MR. O'BRIEN: That is objected to, sir. It is immaterial and irrelevant to any of the issues on trial here.

THE COURT: I am going to let the whole story in, Mr. O'Brien. I will overrule your objection.

A. The letter is addressed to Mr. Halloran at 770 South [1479] Schuylkill Avenue. It says:

"Dear Mr. Halloran:

"My client, Mr. James V. Baronett, has retained me to collect, by immediate suit if necessary, against you personally and against the Contractors' Association of Philadelphia, the General Building Contractors Association, the Pennsylvania Excavators' Association, and their respective members, his claim against said debtors for expenses incurred and paid and for personal services rendered as labor relations counsellor in connection with his settlement of the recent 'wildcat strike' of Operating Engineers in Locals 542, 542 A and 542 B. I.U.O.E., of A.F.L.

"I am sending you herewith an itemized statement of his account with you and the other debtors mentioned which gives full credit for the $4,917.75 already paid on account of expenses only. It would have no useful purpose for me to detail the data with which you are already very familiar. Suffice it to say that I have examined my client's evidence and am convinced that there is now justly due him the sum

of $7,675.25. balance claimed in his bill, with interest from September 17, 1952.

[1480] "If you and your co-debtors are disposed toward amicable settlement, without suit, I shall be pleased to discuss the matter with you on any afternoon from 2:30 to 5:30 o'clock; otherwise complaint will be filed and writ served. As interest accrues alarmingly on large unpaid debts, I should suggest that this matter be liquidated without delay.

"Respectfully yours"

By MR. FREEDMAN:

Q. You signed it? A. Yes, sir, I signed it.

Q. Will you read the attachment now, please.

MR. O'BRIEN: The same objection.

THE COURT: The same ruling.

A. The attachment makes itemized claims for personal expenses.

Salaries and expenses paid to Frank—

By MR. FREEDMAN:

Q. Will you read it verbatim, please, instead of paraphrasing it. Will you read it verbatim. A. Yes.

"1952: To—Labor Relations Services as contracted for:"

And then in the margin the dates are given, [1481] from April 9, 1952, to September 17.

"To—Salary and expenses paid Frank Pitetti, 6 6 to 8 9 $1,408.50.

"To wages paid Frances Baronett, 6/16 to 7/8 $90.00.

"To wages paid Marie Labrida, 7/1 to 7/8 $36.00.

"To salary paid Peter R. Bozelle, 7/10 to 8/9 $750.00.

"To wages paid Dorothy Baronett, 4 9 to 9 8 (22 weeks at $40) $880.00.

"To counsel fee paid James F. Masterson, Esq., consulted at Debtors' request, July 18th $1,000.00.

"To amounts paid for printing, multigraphing, mail addressing, folding, sealing, etc. $693.50.

"To amounts paid for United States postage $300.00.

"To rentals paid for engineers' meetings $75.00.

"To amounts paid telegraph and telephone (including tolls) $60.00.

"To automobile and transportation costs (mileage, gas, oil, and so on) $400.00.

"Total Expenses $5,693.00.

[1482] "To services rendered:

"To compensation due James V. Baronett for personal services as labor relations' counselor: lectures and speeches; composing special appeals; obtaining Confederated Unions charter; conducting elections; supervising campaign and all subordinate activities from 4 9 to 9 17 1952 (23 weeks at $300.00 a week) $6,900.00.

"Total claim $12,593.00.

"Credit:

"By—Amounts paid on account, June 9 to September, 1952 $4,917.75.

"Balance due $7,675.25."

By MR. FREEDMAN:

Q. Did you receive any reply to that communication? A. Not from Mr. Halloran. As a result of sending this to him, both at his office, at his home, and also copies to the various contractors associations, I received a telephone

call, a letter, and a number of personal visits from a Philadelphia lawyer.

Q. Did you send another to Mr. Halloran dated October 20? Will you examine your file, please. A. Yes, I sent him a number of letters, as a matter of fact. October 20, 1952, yes, sir.

[1483] MR. FREEDMAN: Will you mark this, please.

(Letter dated October 20, 1952, from James J. Regan, Jr., to Mr. Harry R. Halloran, was marked Exhibit P-109 for identification.)

MR. FREEDMAN: P-109 is a photostatic copy of a letter from Mr. Regan, James J. Regan, Jr., to Harry R. Halloran, dated October 20, 1952.

By MR. FREEDMAN:

Q. Mr. Regan, I show you P-109 and I ask you whether you can identify that letter. A. Yes, sir. This is a photostatic copy of my letter of October 20, 1952.

Q. Is that the letter that you sent to Mr. Halloran, a copy of it, I mean? A. Yes, sir, it is.

Q. Will you read it to the Court, please.

MR. O'BRIEN: If Your Honor please, I object to it, not only on the grounds that it is immaterial and irrelevant, but is based on hearsay, and it is a self-serving letter on Mr. Regan's part.

THE COURT: There is no question about it, every lawyer's letter is, making a claim for a client.

MR. O'BRIEN: Sir?

[1484] THE COURT: I say, every lawyer's letter containing a claim for a client is a self-serving declaration.

MR. O'BRIEN: This is not so much a claim for a client, sir, as it is a claim for Mr. Regan.

MR. FREEDMAN: Oh, I object to that, sir.

MR. O'BRIEN: The letter speaks for itself, if Your Honor would care to read it.

MR. FREEDMAN: I think that is very unfair.

THE COURT: Do you object to it being read into the record?

MR. O'BRIEN: Yes, sir.

THE COURT: It has been identified.

By THE COURT:

Q. You sent the letter, didn't you, Mr. Regan? A. Yes, Your Honor.

THE COURT: I think that is as far as we will go with it.

By MR. FREEDMAN:

Q. Did you hear from Mr. Halloran in response to those letters, Mr. Regan? A. Only indirectly through a Philadelphia lawyer.

Q. What happened following the sending out, the trans [1485] mittal of that letter?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. I was consulted by a lawyer named G. Fred DiBona.

By MR. FREEDMAN:

Q. Was the claim paid?

MR. O'BRIEN: Objected to.

A. As rendered, no.

THE COURT: I will overrule the objection. Let us get through with this.

By THE COURT:

Q. Was it settled? A. Eventually it was settled, yes, for $4,000.

MR. FREEDMAN: That is all.

MR. O'BRIEN: No questions.

LOUIS ANTHONY LATTANZIO, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. Mr. Lattanzio, how old are you? A. 33.

Q. Where do you live? [1486] A. 608 South Van Buren Street, Wilmington, Delaware.

Q. Are you married? A. Yes, sir.

Q. What is your occupation? A. Operating engineer.

Q. How long have you been following that trade? A. You mean within the union itself?

Q. No. A. Actually since I was about 13 years old.

Q. Will you trace your work record, please, from the beginning to the present date. A. Well, my Dad was in the construction business. He owned a quarry and had equipment. My Dad was more or less handicapped, and he sort of took me everywhere he went, at the quarry, and loaded trucks, and ran dozers, and got the compressors going, things to that effect, up until 1940, when he died. Then my brother and I more or less took over the business. We got a job at the Naval Base at Cedar Point, Maryland.

Q. When was that? A. 1940, 1941.

Q. Go ahead. A. We worked down there up until 1943. Then I went in the service.

[1487] Q. What kind of work were you doing before you went into the service? A. Well, as I said, we had trucks and different types of equipment—compressors.

Q. Were you operating the equipment yourself? A. Yes, sir.

Q. What kind of equipment? A. Well, we would go in and load our own trucks—crane, clam shell. We would go up and load the trucks with sand, gravel, what have you, and go deliver the materials to the different job sites.

Q. You say you went in the service of 1943? A. February of 1943.

Q. What part of the service did you go into? A. Army.

Q. Did you see any action? A. Yes, sir.

Q. Any decorations? A. Purple Heart, two or three battle stars.

Q. When did you come out? A. July 14, 1945.

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[1489] Q. When did you join the union? A. I come into the local probably the middle of 1948, but I didn't get my book till the first part of 1949.

Q. What branch did you go into? A. That was the A branch.

Q. Did you later become a member of the parent body? A. Yes, sir.

Q. When? A. I think it was either January or February of 1952.

Q. That was before supervision? A. Yes, sir.

Q. Have you attended the meetings of the local during supervision, Local 542, here in Philadelphia? A. During supervision?

Q. Yes. A. Yes, sir.

Q. Were there also meetings held down in Delaware of the local during supervision? A. Yes, sir.

Q. Will you tell us about the conduct of the meetings [1490] here in Philadelphia, as you observed them?

MR. O'BRIEN: Objection.

THE COURT: Overruled.

A. You are referring to during supervision?

By MR. FREEDMAN:

Q. Yes, please. A. It was very, very undemocratic.

MR. O'BRIEN: I move that that be stricken, sir.

THE COURT: It may be stricken.

By MR. FREEDMAN:

Q. Don't give us your conclusions. Just tell us what you observed, what you personally saw and heard. A. Well—

Q. We want the facts on which you base that conclu-

sion. A. Well, if you got up on the floor to try to get something across to the chair or tried to get a motion across, you were denied anything you tried to do. It seems as though, if there was anything in favor of the chair, why, you were all right, but once you got something that wasn't in favor of the chair, you were just booed down. You couldn't get anything you wanted across.

Q. Was there any particular group that you observed [1491] during these meetings? A. Yes, sir.

MR. O'BRIEN: Objection.

THE COURT: I will overrule the objection.

THE WITNESS: Yes, sir.

THE COURT: We are getting to the point of diminishing returns, to the point where they are useless.

MR. FREEDMAN: I am not going to press this much more, Your Honor. There is a point to this one, too, which I have to folow up. Your Honor will see in a moment.

By MR. FREEDMAN:

Q. Can you identify that group? A. Well, I know them all, but I don't know their names, being that most of them are from Philadelphia. In fact, all of them are from Philadelphia. The only ones I do know would be Lentino or Wolgast, and, of course, Pete Pantaleo, the business agent, Eddie Edwards.

Q. Eddie Edwards is Eddie Piscatelli? A. Eddie Piscatelli.

Q. Go ahead. A. As I say, I would know them if I see them, but I just can't remember the names.

[1492] Q. You have heard the testimony of other men regarding the activities of this group in the course of the meetings A. Yes, sir.

Q. Does your recollection agree with that testimony?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Yes, sir.

By MR. FREEDMAN:

Q. Now. have you observed this same group elsewhere or any part of the group elsewhere? A. Yes, sir.

Q. Where and under what circumstances A. We had a few of them down on the Tidewater job.

Q. What is the Tidewater job and where is it? A. Well, the Tidewater job was one of the biggest jobs that ever hit the State of Delaware, and it is Delaware City, Delaware, a refinery job. It started out from scratch. In fact, it was a $130,000,000 job.

Q. Were you working on it? A. Yes, sir.

Q. For how long? A. I think I worked there close to 14 months.

Q. During the period of time that you worked there did [1493] you see any of these men that you described as members of this group who conducted themselves at this meeting? A. Yes, sir.

Q. At the meetings during supervision? A. Yes, sir.

Q. What jobs did they hold? A. Well, it is what you call these lush jobs. They get a title such as—

MR. O'BRIEN: Objected to, sir, and I move that it be stricken.

THE COURT: Overruled.

THE WITNESS: As I said, you get a title such as foreman, which the foreman is supposed to take care of the men, see that they get placed, see that they get their jobs done, but they never done it.

By MR. FREEDMAN:

Q. What do they do, if anything? A. Well, the only think I ever saw them do is going around taking horse bets, selling different types of pools, running crap games.

Q. Do you state that of your own personal knowledge? A. Yes, sir.

Q. Now, on the same job, the Tidewater job, how many engineers were employed during the period you were

there? [1494] A. Roughly there was at least 800 men, at least, if not more.

Q. During that period of time that you were there, are you able to state what percentage, how many Delawarians you had, that is, operating engineers from Delaware. A. You mean as the job progressed?

Q. Yes. Give it to us from time to time as you recall it. A. Well, from the start of the job, to my knowledge, there was only one Delaware man on the job, and at the start of the job I think there was approximately 25 men hired.

Q. During the course of the job? A. That was the beginning of the job.

Q. You mean 25 men from Delaware? A. No, sir, there wasn't any men hired from Delaware when the job first started.

Q. Were there Delawarians available? A. Yes, sir.

MR. O'BRIEN: That is objected to, sir.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Where did these men who were hired come from, if you know? A. Philadelphia.

[1495] Q. Do you know them? A. Yes, sir. Well, the first guy that come on the job was Johnnie Piscatelli.

Q. Is he related to Eddie Piscatelli? A. Yes, sir, that's his Dad.

Q. Johnnie is the son of Eddie and Eddie is the business agent? A. That's right, and he brought all his buddies down with him.

Q. Who brought them in? A. Johnnie brought them in.

Q. Now, as the job progressed, were Delawarians employed? A. The Delaware boys didn't start getting hired on that Tidewater job until the middle of September of that year, 1955.

Q. When did the job start? A. The job started March of 1955.

Q. During that period of time was there any unemployment among the Delaware operating engineers? A. Yes, sir.

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

By MR. FREEDMAN:

[1496] Q. What was your answer? A. Yes, sir.

Q. Can you state how much? A. There was quite a few. I couldn't tell you how many, but there was quite a few. I know the agent was getting pestered every day.

Q. When they finally did start employing Delaware engineers on that job, how many did they engage? A. Well, it got to the point where they, I think they got scared of us Delaware boys, and at the time Eddie was in hot water himself, so they opened the gates and let the Delaware men come in, and quite a few of them had come in.

Q. How many got jobs, would you say? A. Well, just about every Delaware man that wanted a job at that time.

Q. And that was when? A. About the middle of September or the latter part of September.

Q. Did you file charges against the local with the National Labor Relations Board alleging discrimination? A. Yes, sir.

Q. Tell us when you did and what the occasion was.

[1497] MR. O'BRIEN: Objected to, sir. The record is the best evidence of when the charges were filed and what is contained in the charges.

THE COURT: Overruled.

A. Well, it all started as far back as February of that year, 1955. We all knew the job was going to break. In fact, it was already cut and dried as to who was going to be the master mechanic. So knowing that, I tried to get a job there or went through the right procedure. That didn't work. I called Johnnie himself. He says, "Don't worry about a thing. You would be the first man on the job."

That fell through. I kept pestering Eddie, kept pestering him. He just kept giving me the run-around.

So I just kept taking it. I was working at the time, but I wasn't getting the top rate, and I was trying to better myself. I was trying to get on the higher rate on another job.

So I got to a point where I just couldn't take it any more. At that September meeting I got up on the floor and asked Hank, the assistant supervisor, how one can get a job at the Tidewater job.

Q. When you say Hank, do you mean Hank Lavery? A. Hank Lavery, yes, and he says, "Well, see your agent."

[1498] So I told him how hard we tried to get the agent and he kept pushing us around. So he said, "Well, come and see me."

Well, prior to that Joe Sylvester had the same trouble I had, and the same thing was put to him, only by Eddie Piscatelli, to go see Hank Lavery if he wanted a job on the Tidewater job.

So Joe Sylvester did. He went up and seen Hank Lavery and didn't get any results whatsoever.

So right after I asked Hank that and he told me to "see me," Joe got up and told him, "I wanted to see you. I am not working on Tidewater yet," and everything just dropped right then and there.

I think it was one or two days after that, Joe and I went up to the N.L.R.B. and filed charges.

Q. What happened after that? A. We filed charges 10:00 o'clock that morning, and 8:00 o'clock that night we got a phone call from the agent to go to work the next day.

Q. Have you made a survey in the Delaware area to determine what unemployment exists on the job among the Delawarians? A. Just recently, yes, sir.

[1499] Q. Will you tell us what that survey indicated, please.

MR. O'BRIEN: Objected to.

THE COURT: Sustained at this time.

By MR. FREEDMAN:

Q. In making the survey did you determine or did you try to determine what the percentage of engineers were working on the jobs from out of the state and what percentage of Delaware engineers were employed? A. Yes, sir.

Q. Will you tell us what the results of your survey were.

MR. O'BRIEN: Objected to.

Q. What percentages you found, please.

MR. O'BRIEN: Objection, sir.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. Are you able to state how many men specifically from Deleware were employed on the jobs and how many from out of the state were employed on the various jobs where you made your survey? A. Not on all the jobs.

Q. Well, on any of them? A. Yes, sir.

Q. Give us the jobs that you remember, where you can [1500] specifically state the number of Delawarians as against the others?

MR. O'BRIEN: That is objected to, sir.

THE COURT: The question is only, give the jobs, which I suppose means location.

Your objection is overruled.

A. Well, the Claymont job for one, in Claymont, Delaware. That is the steel plant there.

By MR. FREEDMAN:

Q. At that job do you know how many Delawarians are employed and how many from out of the state?

MR. O'BRIEN: Objected to.

THE COURT: I will sustain the objection to the form of the question.

By MR. FREEDMAN:

Q. Can you state which of the men employed on that job are from Delaware? Can you identify them? A. Yes, sir.

By THE COURT:

Q. How many operating engineers are on the job? A. At the time there was 19 men, I believe.

Q. You believe. How do you know? A. Through the boy that was working there.

Q. Through a boy that was working there? [1501] A. Through on the operators, plus, the fact that I seen them myself.

Q. Well, I am talking about you, not what somebody told you. Did you make your own count? A. No, sir, I only took the count from what the business agent said.

THE COURT: I am not going into that kind of statistics. I will sustain the objection.

By MR. FREEDMAN:

Q. Did you ever hear a conversation from Eddie Piscatelli regarding Ed Farmer? A. Yes, sir.

Q. Can you tell us what you heard, please?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. Did you ever hear Mr. Piscatelli threaten any other member of the union in connection with the work in your jurisdiction?

MR. O'BRIEN: Objected to.

THE COURT: Sustained.

[1514] JOHN J. TESTA, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. How old are you, Mr. Testa? A. Thirty-five, sir.

Q. Where do you live? A. 7154 Lynford Street, Philadelphia, Pa.

Q. Are you married? A. Yes, sir.

Q. Any children? A. Three.

Q. What is your occupation, Mr. Testa? A. Operating engineer.

Q. Will you trace your work record? When did you first start as an operating engineer? A. 1941.

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[1518] Q. Now, did you personally have any altercation with one of the business agents in connection with union matters? A. I did.

Q. Will you tell us about it and give us the time and the place where it occurred and the circumstances?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. The place was down in South Philadelphia at the Building Trades Athletic Club. It was at the end of March in 1954, the business agent being Pete Pantaleo. This club had a meeting concerning pledges towards purchasing of a new club—

MR. O'BRIEN: If Your Honor please, that is not in connection with union business and I move that the answer be stricken.

MR. FREEDMAN: It is going to be connected [1519] immediately.

MR. O'BRIEN: So far it has not.

THE COURT: Motion denied. Proceed.

A. I read the testimony of John J. McDonald, and I

have seen where he issued orders to break up these clubs—

THE COURT: You read the testimony of John J. McDonald where?

THE WITNESS: William E. Maloney—pardon me.

THE COURT: What?

THE WITNESS: William E. Maloney. Did I say John J. McDonald?

THE COURT: You read the testimony?

THE WITNESS: The deposition rather.

By MR. FREEDMAN:

Q. You mean prior testimony which had been taken of Mr. Maloney in depositions in this case? A. Yes.

THE COURT: Go ahead.

A. Well, during the course of this meeting members got up and made pledges. Pete Pantaleo got up and he made several pledges.

Q. He was the business agent? [1520] A. He was the business agent. At this point I asked the Chair if I could challenge Pete Pantaleo's pledges.

Of course, the Chair denied me, and I sat down, and Pete Pantaleo started to call me—

Q. Did you state your reason why you wanted to challenge the pledges? A. Yes, because Pete Pantaleo was a business agent and Maloney gave orders to break these clubs up, and I just wanted to test—I wanted to find out where Pete Pantaleo's sincerity lie, either with the membership of this club or Mr. Maloney.

Q. Go ahead. A. At this point the chairman of the B.T.A. Club told me to sit down, and I did.

Pete Pantaleo started to call me all these filthy names. At one point he even cursed my mother. He threatened me. He told me that I wasn't big enough to talk to him like that. Of course he sat down and the meeting continued with the pledges. And after the meeting adjourned I left.

As I left, Pete Pantaleo, Altamura and Phil Ferrari followed me out of the door. Just as soon as I got out of the door there Pete Pantaleo grabbed me by the lapel, shoved me up against the wall with his elbows over [1521] my arms. While he was holding me there Altamura started to punch me on my face. While he was punching me at my face, Pete Pantaleo started to punch me at my arms, my ribs and at the same time even kneed me at my groin.

At this point I managed to get away. I got out in the center of the street. Another person came in at me, and that was Phil Ferrari. Well, Phil Ferrari started to punch me there. Altamura started to jump in again, and he was also punching me. Colombo Acchione and Armen Acchione were there. They were attempting to pull these people apart to stop the fight, and they just kept on coming at me. And Armen Acchione did manage to pull Altamura away. Phil Ferrari left, and Pete Pantaleo went back into the club, and I in turn went to the hospital with a few of our boys.

* * * * * * * * *

[1522] Q. Now, did you have these men arrested? A. Yes, I did.

Q. That is, Pantaleo, Ferrari and Altamura? A. Yes, sir.

Q. Did you subsequently enter into a stipulation agreeing to the withdrawal of the charges if they agreed not to commit any further assaults upon operating enineers? A. Yes, I did.

[1522a] MR. FREEDMAN: Will you mark this.

(The stipulation was marked Exhibit P-111.)

By MR. FREEDMAN:

Q. I show you a stipulation marked P-111 and ask you if that is the stipulation that was entered into. A. Yes.

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[1523] Q. Have you been steadily employed since supervision was invoked, Mr. Testa? A. I would say no.

Q. How much time have you lost? A. Well, out of the four and a half years, I would say that I have lost approximately about a little over a year, and I am beginning to feel it right now.

Q. Just tell us how much you lost. A. I would say out of the four and a half years of supervision I lost approximately about 13 months' work.

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[1536] HOWARD J. KAYE, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. How old are you, Mr. Kaye? A. Thirty.

Q. Where do you live? A. Appleby Road Trailer Court.

Q. Where is that? A. New Castle, Delaware.

[1537] Q. Married? A. Yes, sir.

Q. Any children? A. Two.

Q. What is your occupation? A. Operating engineer.

Q. How long have you been following that trade? A. A little over seven years.

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[1538] Q. Have you been attending the meetings of the union [1539] since supervision? A. Yes, sir, some of them, not all of them.

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Q. Can you identify the group that interferes in these meetings? A. Some of them I can, yes. I mean, I know a lot of them by their face, not by their name.

Q. Will you identify as many as you can, please.

* * * * * * * * *

[1540] A. Well, there is Frank Lentino, Johnny Wolgast, Phil Ferrari—that is about all the names I know. I know the others just by sight.

By MR. FREEDMAN:

Q. About how many are there in the group? A. Oh, I would say about fifteen to twenty that cause all the commotion.

By THE COURT:

Q. Do you see any of them in the room here? A. Just the ones I named, Frank Lentino.

Q. Anybody else? A. No, I don't see anybody else.

THE COURT: All right. Go ahead.

By MR. FREEDMAN:

Q. Now, what does this group do at the meetings? A. Well, if a question is raised on the floor, they shout and holler so that nobody can hear what it is and it can't be answered anyhow because they don't want it [1541] answered. They just curse you, tell you to sit down and shut up, use all kind of abusive language.

Q. Were you involved in any altercation in the course of one of these meetings? A. Yes, I was.

Q. When and where? A. It was on July 3 of 1956. It was in the Broadwood Hotel.

Q. This was at one of the meetings? Who was presiding at the time? A. Harry Lavery.

Q. Tell us what happened.

* * * * * * *

A. Bill Hogan was asking a question. He had the floor and was asking a question about the Welfare Fund, and this shouting started, and particularly this Wolgast, who was to my left, was telling him to sit down and shut up, and stuff like that.

So I got up and I addressed Harry Lavery, and I said, "Why do you let this man interrupt this man? This man has the floor. He should have a right to speak."

So Wolgast told me, "Shut up and sit down.'

I said, "No, you shut up so the meeting can [1542] go on," or something like that. So he came at me, fists flying. He said, "You make me."

I pushed him back the first time. Then he came at me again with his firts flying, and the fight started, and it didn't last very long, and they broke that up.

Then the meeting continued, and it didn't seem to last too long. Anyhow, some of the fellows were telling me to move into the center. I did move in maybe a seat, and I said, "No, there is nothing to worry about."

They said, "You don't know these guys like we do."

I said, "That is all right, they won't bother me."

So the meeting was adjourned. I didn't hear anybody make a motion that the meeting be adjourned. All I heard was Hank Lavery saying the motions were made and seconded that the meeting be adjourned.

John Testa was sitting to my right, and he got up and asked Lavery, "Who made the motion?"

I looked over to my right at the speaker, then I thought the ceiling fell in or something. I went back in the chair. I finally got up. I don't know how [1543] I got up even, and I was trying to defend myself. There was, I would say, three to four fellows on me. They were holding me and trying to make it look to the majority of the membership like they were trying to break up the fight, but they were holding me with one hand and giving me the slugs with the other, and the kicks, and stuff like that that they could get in, that they didn't look too obvious, while he is on the loose and I am being held—

Q. Who was on the loose? A. Wolgast. Christaldi is his right name; he also goes by the name of Wolgast. He has two names.

Then finally they got that broke up and the police come, I guess it was—wel, they took me down, they escorted me downstairs. I think it was George Salzman had asked them to see that I got safely out of the building, and some of the fellows went with me, and when I got down on the pavement, I guess there were about, well, somebody had called the riot squad because there were about twelve or fifteen red cars down there, and the police were

really coming into the building then. But by then I was down on the street, on Broad Street.

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[1560] EDMUND D. WARMER, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. How old are you, Mr. Farmer? A. Thirty-seven.

Q. Where do you live? A. In Claymont, Delaware, 2308 McKinley Avenue.

Q. Are you married? A. Yes, sir.

Q. Any children? A. Three.

Q. What is your occupation? [1561] A. Operating engineer.

Q. How long have you been engaged in that field? A. Since 1939.

* * * * * * * *

[1565] Q. Now, who is your business agent down in Delaware? A. Eddie Steffalo I know is business agent at the present time.

Q. Was Eddie Piscatelli one of the business agents at one time? A. Yes, sir.

Q. Have you had any conversation or incidents with him? A. Yes, sir.

MR. O'BRIEN: That is objected to, sir.

[1566] THE COURT: Overruled. Proceed.

By MR. FREEDMAN:

Q. Tell us what they were, sir.

MR. O'BRIEN: Same objection.

THE COURT: Same ruling.

A. In 1954 I was out of work between jobs for a period of a few months. Eddie Piscatelli was the business agent in the area at the time. There were two contractors in the area that I believed had contracts for Local 542 agree-

able to the conditions of contract. There were several other men as I myself was, unemployed during this period of time, and at normal times we would be at the Building Trades where Eddie Piscatelli was supposed to be, and we asked him for different jobs that we knew were available, and he refused to put men on. He said, "We can't crucify those contractors because they already have extra men on the jobs for those jobs, and I refuse to make them hire any men in excess."

So we asked him about the contract, and he would ignore it, and he would get mad, and he would start storming and cussing and threatening me personally and several of the other fellows in my presence.

Q. What kind of threats A. Well, he would say, "If you dont' leave me alone— [1567] I am doing a good job in Delaware, and if you don't leave me alone, I am going to put a bullet in your guts."

Q. Go ahead. A. So it wasn't too long until I went back to work again, and I didn't have any more contacts with him at that time.

Then at another time the pipefitters had a strike for wage agreement, and we were out of work for a period of ten or twelve days, and I asked him for another job. This was in 1954.

He refused me the job, and he refused still to put men on these contractors' jobs where they had compressors and pumps, and they would have one operator that was making as high as three and four changes in one day from clam to a hook, back to the clam again, and a back hoe.

I asked him if he didn't know that those people had contracts with 542 supposedly or had agreed to pay our wages and conditions on those contracts.

He said he knew it but those contractors had excess men that they were going to bring in, and he neved did man the jobs.

So he got mad several times when I asked him to go to the job sites with me, and I wanted to show [1568] him

the amount of equipment in case he had not been there, I would be willing to go there with him at any time and show him if he was unfamiliar with the territory, and he refused to do so, and he would get mad and say I wasn't the business agent, he didn't have to answer to me, and that he didn't want any more interference down there. If I wanted to go to Marcus Hook, where his son was working, that he would have his son work me over and take care of me for good.

Well, I agreed—he was going to come to Delaware and bring his mob, through the conversation, and I offered to meet him—

MR. O'BRIEN: I move that that be stricken.

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By THE COURT:

Q. What do you mean by that? Did you tell me that you knew he was going to do it or anything of that sort, or was that just your mental conclusion? [1569] A. My mental conclusion that I would meet him.

THE COURT: All right. The motion is granted. It may be stricken.

By MR. FREEDMAN:

Q. Just tell what was said between the two of you, please. A. Well, as well as I remember, that he had a gang of men here in Philadelphia to take care of all such troublemakers as I was in the State of Delaware, as far as he is concerned.

By THE COURT:

Q. Now, this is his conversation with you? A. Yes, sir.

THE COURT: All right. Go ahead.

A. And I told him I wasn't concerned with his mob, that they could take care of me, that was well and good, but they would have to before I stopped trying to do what I could for the best interests of myself and the men that

are unemployed, and which I knew they had rights to work on those jobs that are unmanned.

MR. O'BRIEN: I move that that be stricken, sir.

THE COURT: Overruled.

A. So at that point he said, "Well, Johnny will take [1570] care of you."

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[1583] GERALD MICHAEL GILROY, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. How old are you, Mr. Gilroy? A. Fifty-eight.

Q. Are you married? A. No.

Q. Where do you live? A. 112 Gilroy Street, Dunmore.

Q. Where is that? A. Pennsylvania.

Q. Whereabouts is that? A. Near Scranton.

Q. What is your occupation, please? A. Operating engineer.

[1584] Q. How long have you been in that business? A. Since 1943.

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[1585] Q. Did you hold any position in the union at any time? A. I was an organizer then.

Q. You were an organizer? A. Yes.

Q. When? A. 1949.

Q. Where did you do your organizing? A. Up on the Turnpike, upstate toward Harrisburg.

[1586] Q. Do you have any personal knowledge regarding the difficulty with Local 66 on that job?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. Yes, I do.

By MR. FREEDMAN:

Q. Will you tell us what you know of your own knowledge, please?

MR. O'BRIEN: That is objected to.

THE COURT: The objection is overruled.

A. Well, we had a picket line up there and these men from 66 went through it, they wouldn't stop for us.

By MR. FREEDMAN:

Q. Did you ever see Mr. Wharton on the job? A. He come there one day, him and Mr. McDonald and Roy Underwood and another man by the name of Mango, Mungo, I think his name was, he was a business agent from Local 66.

Q. And what happened? A. Well, they wanted him to see if he knowed any of his men. So he didn't want—Mr. Wharton didn't want to go in there. So Underwood told—

MR. O'BRIEN: That is objected to, sir.

THE COURT: Overruled.

A. So Underwood told him to come in see if he knows [1587] any of his men.

So he said, "I ain't got time," he has got to get a plane to go back to Pittsburgh again.

"Well, it is no use for you coming here." Underwood was arguing with him. Finally he agreed to come in, but he followed Underwood in. He said he couldn't do nothing with the men.

By MR. FREEDMAN:

Q. Did the men come off the job? A. No, they didn't.

Q. Now, Mr. Gilroy, have you attended the meetings in Philadelphia during the period that Mr. Underwood was in office? A. I did some of them, when I could get down to them.

Q. Have you attended the meetings following supervision in August of '52? A. Some of them, too, when I could get down.

Q. Have you heard the testimony of other witnesses

here on the witness stand regarding the conduct of those meetings? A. Yes, I have.

Q. Does your recollection of what happened agree with the testimony that you heard in this courtroom? A. Yes, it does.

MR. O'BRIEN: Objected to.

[1588] THE COURT: Just a minute, Mr. Gilroy.

I will sustain the objection to that question to this witness.

By MR. FREEDMAN:

Q. Mr. Gilroy, will you tell us how the meetings were conducted during the period that Mr. Underwood was in office?

THE COURT: What meetings? Here is a man from Scranton.

MR. FREEDMAN: The membership meetings.

By THE COURT:

Q. Actually how many meetings did you attend in that interval from '48 to '52? Just exactly how many did you attend between '48 and '52? A. I would say 15 or 20.

Q. 15 or 20? A. Yes.

Q. That would be matter of perhaps four a year, one every three months? A. Well, it may be better than that sometimes—I don't know just exactly—I couldn't say.

THE COURT: All right. That is a fair sample.

You may ask the question.

By MR. FREEDMAN:

Q. Will you tell us how the meetings were conducted during [1589] Mr. Undergood's regime, please? A. Well, when I was attending the meetings, they were conducted, you could get up and say what you wanted, nobody hollered at you or nothing. You had your say, and there was never no argument—there were arguments, but never no fights, or anything like now.

Q. Were the members informed regarding the con-

tracts with the employers during those meetings? A. With Underwood?

Q. That is right, during the Underwood period. A. Yes.

Q. And the disbursements, financial reports—were they given financial reports, too? A. Oh, yes, he would read a financial report.

Q. Now, was there any difference during the period of supervision from August to the present time? Let me ask you: How many meetings have you attended during supervision, that is, from August of '52? A. I attended quite a few. I missed maybe about three or four, I think, because there were no meetings for quite a while—and then I think I missed a few of them.

Q. How many would you say you attended?

MR. FREEDMAN: Was Your Honor going to ask a question?

[1590] THE COURT: You asked it. Tell us how many you attended.

THE WITNESS: Well, I would say to my knowledge about six or seven anyhow.

THE COURT: Six or seven?

THE WITNESS: Yes.

THE COURT: That would be at the rate of one every ten or twelve months.

THE WITNIESS: Well, they didn't have none for quite a while. I don't know for how long they didn't have them there.

THE COURT: How many did you attend in '56?

THE WITNESS: I think I attended about three that I know of.

By MR. FREEDMAN:

Q. How about '55? A. I think I attended about five, four or five.

Q. In '55? A. In '55, because I was close, I was working here at Phoenixville, and if I could get down, I got down to them.

THE COURT: All right. Go ahead.

By MR. FREEDMAN:

Q. Now, will you tell us, was there any difference in the conduct of the meetings during supervision than what [1591] you had during Mr. Underwood's regime? A. Yes.

MR. O'BRIEN: Same objection.

THE COURT: What he personally observed, I will let him answer. Let's have facts.

By MR. FREEDMAN:

Q. Just tell us personally what you observed and heard at those meetings. A. Well, they would get up, try to ask a question, there would be a gang standing on the side of the wall, "Sit down, shut up, you bum," and all, curse names they would call him, and--

Q. This is during supervision, you mean? A. Yes.

Q. Go ahead. A. And then the Chair wouldn't say nothing to them, the man had the floor and he wouldn't let him talk, and the crowd around there wouldn't let him talk.

Q. These fellows that you are talking about doing the shouting, was it a group of men? A. Yes, there were about ten or fifteen of them.

Q. Was it the same group of men that engaged in those activities all during the meetings that you attended? A. Well, some of them I know was.

[1592] Q. Can you identify them? A. Well, I only know a few of them by name, that Frank Lentino, and Wolgast—that is about all I know by name, but I see'd the same faces I knowed their faces.

By THE COURT:

Q. Any of them in court today? A. I see only Frank Lentino.

Q. Were any of those engaged in yelling and shouting that you are talking about business agents? A. No, they wasn't—just this here one fellow got up one night and

made a motion that he is working for less wages, and they did away with the 40 hours on the job, and he said he is glad that he got his wage cut and all the men are satisfied, and they didn't say nothing, they gave him a job as business agent after that, that fellow.

* * * * * * * *

[1598] WILLIAM DAVID HOGAN, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. How old are you, Mr. Hogan? A. 38 years old.

Q. Where do you live? A. 137 Green Road, Roslyn, Pa.

Q. Are you married? A. Yes, I am.

Q. Any children? A. One.

[1599] Q. What is your occupation? A. Operating engineer.

Q. Are you a member of Local 542? A. Yes, I am.

Q. How long have you been an operating engineer? A. Eight or nine years. Eight years, I guess.

* * * * * * * *

[1600] Q. Have you attended the meeting during the Underwood regime? A. Yes; yes, I did.

[1601] Q. Were you an officer in the union at that time? A. No, I wasn't.

Q. Have you attended the meetings following supervision in August of 1952? A. I haven't missed a one.

Q. Will you tell us how the meetings were conducted under Mr. Underwood, please.

MR. O'BRIEN: Objected to, sir.

THE COURT: Overruled.

A. Well, under Mr. Underwood any member of Local 542 could get up and raise a question. He would be given a fair chance to talk. Not saying that he would always gain his point. Of course, anybody on the floor always had

to muster enough strength to put anything across, but at least they were given an opportunity to talk and have a fair say on the floor on all issues.

By MR. FREEDMAN:

Q. Were the affairs of the union reported to the membership at the meetings? A. The condition of the local at that time was always made public at the meetings, everything about the condition of the local pertaining to finances, contracts, everything. The membership was well informed.

Q. Were the jobs policed by the agents during the Underwood [1602] regime? A. They had to be policed or they were relieved of their duties.

Q. Now, following supervision in August of 1952, I think you said you attended all of the meetings. A. That's right.

Q. Has there been any change? A. Quite a change, in my estimation.

Q. Will you tell us in what respect, please, from your own personal knowledge.

* * * * * * *

A. Well, now, or since supervision was imposed, you get on the floor now, you might get your question in, but that's about all. Of course, you are shouted down, and, of course, we take the position now that we don't sit down when we are shouted down. We try to get a ruling from the floor, and, of course, I would say 70 per cent of the time your questions are never answered—at least 70 per cent of the time.

By MR. FREEDMAN:

Q. Have you personally attempted to ask questions of the Chair or make any motions? A. Yes, I have.

[1603] Q. Will you tell us some of those occasions when you did present questions and what the questions were. A. Well, particularly about the contracts that the officials of supervision have entered into. We are con-

stantly asking them questions about the contracts because we don't know what we have.

Welfare program.

Q. Did you get an answer to your contract questions? A. No. You get answers, but they are meaningless. You are always left in the dark. You never know where you stand on them.

Q. Go ahead. You started to mention the welfare. A. The welfare program.

Q. What kind of questions did you ask regarding the welfare program? A. Well, for instance, they put out a report, I believe, and we were questioning the report. According to their own record, now, we would have either had a major unemployment, I think we would have had a major unemployment situation in the local, or a percentage of the contractors within our jurisdiction wasn't paying into the plan.

MR. O'BRIEN: I move that that be stricken, sir.

[1604] By MR. FREEDMAN:

Q. Is this something that you took up at a meeting? A. Yes, sir.

By THE COURT:

Q. That was your allegation, was it, at that time? A. Yes, sir.

THE COURT: All right, I will permit it. The objection is overruled.

By MR. FREEDMAN:

Q. Go ahead, tell us what happened. A. Well, we would never get any answers.

Q. What did you ask the presiding officer A. I asked the assistant supervisor, Mr. Lavery, if this condition existed within our jurisdiction, if we had a major unemployment problem, or if the contractors within our jurisdiction weren't paying into the plan, and I would get no satisfaction from the floor.

[1605] Q. What did he say? A. He would just tell me that I am a cutie, or I am throwing him a curve. That is the only answer I would get off him.

Q. Will you continue and tell us in what other respects there were any differences in the conduct of the meetings during supervision than the conduct of the meetings during Underwood's regime. A. Well, like I told you, we were always shouted down from a group of fellows that were on the side.

Q. Is it the same group of fellows all the time? A. Yes, it is.

Q. Can you identify that group? A. Well, Frankie Lentino, Sporanzi, Altamura, Johnny Wolgast—and of course there are a number of others whom I know by face but I don't know by name.

Q. How many are there in the group? A. I would say about ten to fifteen, in around there.

Q. Does this group or the members of the group stand any particular place at the meetings? A. Off to the left they stand, on the aisle—and that is something else. We are compelled to take seats, where they are not. We must take a seat. We are not allowed to stand up.

[1606] But these fellows are allowed to stand up and walk up and down the aisles at will.

* * * * * * * *

[1610] Q. Now, did you ever attempt to find out what the contracts were with the union from the supervisor? A. Yes, I did.

Q. Will you tell us what steps you took, please. A. First of all, I wanted to know what contracts we had. We don't know till this day what we are working under.

I questioned Mr. Lavery on the thirty-four county heavy highway and railroad construction contract, which they recently entered into.

At first at the meetings he denied ever having entered into that contract.

I went down to his office and specifically asked him if he entered into the contract.

Q. When was this? A. If I am not mistaken, I believe it was in May or June of last year that I went down.

Q. Of '56? A. In '56, that is right.

Q. Go ahead. You tell us what you said to him and what [1611] he said to you. A. I told him as a dues-paying member I had a right to know what contract he had entered into.

He then for the first time admitted to me that he did sign a contract, but it was in his files and locked up and no member of Local 542 was going to see it. That is what he told me.

Q. Did you also take up with Mr. Lavery the question of one of the other business agents, the financial affairs regarding one of the other business agents? A. I don't follow you there, Mr. Freedman.

Q. Did you take up with Mr. Lavery the case of Al Smith? Who is Al Smith? A. Al Smith was a former business agent of the union. Yes, I took it up with Mr. Lavery. Jimmy Russell and myself both went down to see Mr. Lavery about that and demanded to see these affidavits.

Q. What affidavits? A. Well, affidavits that were signed by members of the union who had paid some member for books and permit fees, and there might have been something more to it, I don't know, but those two were established anyway.

He showed us the affidavits all right.

[1612] We wanted to place charges, but he said that the union would take care of it.

The result of it was that Al Smith just resigned, that is all.

Q. Resigned as business agent? A. Resigned as business agent.

Q. Were any charges preferred against him? A. Never. They told us at one meeting that something was going to be done about it but nothing was ever done.

Q. Did you examine the affidavits that Mr. Lavery showed you? A. We didn't have them in our hands. He

merely showed them to us, that these were the affidavits signed by the different members within the local of our jurisdiction.

Q. What was the purport, as he gave it to you, of the affidavits? A. I didn't hear you.

Q. What was he accused of doing, Al Smith, in the affidavits? A. Taking money and giving no receipts for it.

Q. Was that money ever accounted for? A. Never.

* * * * * * * * *

[1614] Q. Now, do you remember a man by the name of Baronett? A. Yes, I do.

Q. Who was he? A. He was a former member of Local 542 and also an ex-business agent.

* * * * * * * * *

[1615] Q. Did you have any contact with Mr. Baronett during the period of the strike which started in May of 1952? A. Yes, I did.

Q. Will you tell us what contact you had, please?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

A. I went to one of the meetings of Baronett, held in his home, and from that meeting I reported back—

* * * * * * * * *

[1617] He also told us that there was an International man coming in and he had their full support.

Q. An International man from where. A. From the International Union.

Q. Of Operating Engineers? A. Of Operating engineers.

[1618] Q. Did he mention who it was? A. No, he didn't.

Q. Did he explain what he meant when he said he had their full support? A. I guess he means at that time—

MR. O'BRIEN: Objected to.

THE COURT: Are you sure he did not mean the International Structural—

THE WITNESS: No, sir. He mentioned the International Union of Operating Engineers.

THE COURT: All right, go ahead.

By MR. FREEDMAN:

Q. When he said he had their full support, who was he referring to?

MR. O'BRIEN: Objected to.

THE COURT: Sustained on that one.

By MR. FREEDMAN:

Q. Well, you go ahead and tell us just what he said. A. Well, he merely stated that the International Union of Operating Enineers representative was coming in and he was giving his full support, I guess in regards to his actions, back-to-work movement.

MR. O'BRIEN: I move that be stricken, sir.

THE COURT: It may be stricken.

[1619] By MR. FREEDMAN:

Q. Now, did you report your meeting back to anyone? A. Yes, sir.

Q. To whom? A. I was called before the Executive Board of Local 542, and I reported this all to the Executive Board at that time. I think it was prior to the August 4 meeting.

Q. Incidentally, before we get into that, who was present at that time when you were in this meeting with Mr. Baronett? A. Pitetti; Bozzelli, a fellow by the name of Pickering, another fellow by the name of Lee. There were some more there I didn't know. But there were those four.

Q. Now, you go ahead and tell us to whom you reported and what was done? A. Well, I reported back to the Exeeutive Board exactly what Baronett had told us, and when I had mentioned the fact that the International Union of Operating Enineers representative was coming in, John McDonald said to me, he says, "The International would never do anything like that," and he thought that that was a lie.

Q. You say this was at a board meeting? [1619a] A. This was at the Executive Board Meeting, prior to the August 4 meeting.

Q. The Local Executive Board of 542? A. Yes.

* * * * * * *

[1627] By THE COURT:

Q. There had been a strike for three months. A. Yes, sir.

Q. You remember that? A. Yes.

Q. There came a time in August—have you been here through all this testimony? A. Yes, sir.

Q. It has been testified that Underwood took a trip first to Washington and then to Chicago? A. Yes, sir.

Q. After the Chicago trip Underwood sent in a telegram, about which you knew, apparently, or the Executive Committee knew. Were you on the Executive Board? A. No.

[1628] Q. A telegram came back from Maloney? A. Yes, sir.

Q. Which was discussed at a meeting. A. Oh, yes, sir.

Q. Now, a motion was put to either approve or reject. I think the motion was in the form of a rejection. How did Underwood advise you as a member from the rostrum to vote on that motion? A. He told the membership that night that, in his mind, Your Honor, I can't give it word for word—

Q. I don't want you to. A. In his mind, he honestly couldn't recommend accepting this proposal, that he would not recommend the proposal.

Q. He would not recommend it? A. That's right, but that the membership at that time, it was their right to decide whether or not they would accept it or reject it, so he was leaving it up to them; and if I am not mistaken, that was the meeting that Mr. McDonald and Mr. Wharton urged the membership to accept it, but the membership rejected it.

Q. But he said that he would not recommend their acceptance? A. He said, in his mind, he couldn't, he

wouldn't, urge the membership to reject it or to accept it. That's the way [1629] it was, Your Honor.

Q. Can you project yourself back to that night and answer this question: Suppose Underwood had vigorously urged you to accept it, what would you have done? A. I would have voted against it, Your Honor.

Q. You would have voted against it? A. Yes, sir.

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[1634] HOWARD J. KAYE, recalled.

DIRECT EXAMINATION

By MR. FREEDMAN:

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[1635] Q. Did you work on any jobs for less than the rate provided in the contract?

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MR. FREEDMAN: Will you mark this as the next exhibit, please.

(Pay Voucher of Standard Bitulithic Company was marked Exhibit P-118 for identification.)

By MR. FREEDMAN:

Q. P-118 is a pay voucher. I show you P-118 and I ask you to identify that, please. A. That is what you tear off your check, it is like a stub you get for your earnings. I received this from Standard Bitulithic Company when I was working in the State of Delaware. I worked two days on a road job for [1636] them, and I was on a heater-planer. The exact rate on that on the road job under the contract, which they signed—

MR. O'BRIEN: That is objected to, sir. The contract is the best evidence of what the rate is.

THE COURT: Well, we can only take one thing at a time. It is his assertion that it is the contract. Are you prepared to establish that, Mr. Freedman?

MR. FREEDMAN: Yes, Your Honor.

A. Under their contract I was on heater-planer, was

the type of machine, it would come under "All Other Equipment", and the rate—it is either 3.38½ or $3.40.

I was sent on the job by the business agent—

By MR. FREEDMAN:

Q. Which one? A. Eddie Steffalo, and he told me to go on the job. I didn't ask him about what the rate was—to the best of my knowledge I didn't—and he said, "Just go up there," they needed a man up there.

So I went up on the heater-planer. I got there. I asked the superintendent, I says, "What is the rate on this?" because I had heard different stories going around, and I asked him what the rate was.

[1637] He said, "$2.40 an hour."

I says, "No, I think you are mistaken."

I pulled out a copy of the contract and showed him it was either $3.38½ or $3.40 an hour.

And he said, "Well, that is what they told me down at the office."

I said, "Well, I am going to see the agent about it." And I said, "I will tell you, I will not stay here for no $2.40 an hour because under the contract the rate is $3.40 an hour," which is the contract they signed from 1955 to 1957.

So I worked that day and the next day, two days I worked. I called the agent that evening and I told him about it.

He said, "I will take it up with Hank."

Q. Hank who? A. Hank Lavery, Harry Lavery. And I went to work the next day. I told the man on the job I was quitting, and he asked me if I would get in touch with the agent and send a replacement for him.

I said yes, I would.

I went to the meeting, and there was a discussion on the floor about something, and somebody got up—Jim Garcia got up and he said, "What do you [1638] mean trying to raise our dues when you are cutting our wages a dollar an hour?"

He says, "That is a lie—" Harry Lavery says, "you are lying. We never cut your wages a dollar an hour." He said, "In the five counties in the State of Delaware the contract exists as it stands."

So I tried to get the floor, and it was quite a job to get the floor. Harry Lavery was telling me I was out of order, to sit down, he would have me fined, he would do this, he would do that: I believe he called me a bum. I couldn't hear everything he was saying.

Anyhow the fellows kept saying, "Well, we want to hear what he had got to say."

Finally I got up and he asked me what job I was working on, and I told him, Standard Bitulithic, and finally he agreed that they had signed a contract with Standard Bitulithic for $1 an hour under the rate. But at first he denied it to the membership, until I said, "Well, I am working on the job. That is how I know." And here is the pay receipt, has sixteen hours right on it, $38.40.

MR. FREEDMAN: That is all.

CROSS-EXAMINATION

By MR. O'BRIEN:

[1639] Q. Is that the contract you pulled out to show to the superintendent, this one here (indicating)? You said the 1955 to 1957 contract. A. Just a minute, sir.

Q. I am trying to help you out. A. Yes, sir.

Q. Now, you show me in that contract—you point out in that contract where roadbuilding in Delaware is covered. A. Yes, sir, I will.

Q. This job was in Delaware, was it not? A. Yes, it was, sir.

Q. And it was a highway job? A. Yes, sir. In the front of the book, sir, it says:

"This agreement made and dated this 18th day of July, 1955, by and between Local Union 542, 542-A, 542-B,

International Union of Operating Engineers, A. F. of L. (hereinafter referred to as the Union), and General Building Contractors' Association of Philadelphia and Eastern Pennsylvania, Allied Construction Industries of Delaware, Inc., negotiating agents for their respective members (hereinafter referred to as Employers)."

And back here on Page 15, sir is the wages and conditions—

[1640] Q. Show me where it covers highway wages. A. Well, that is what I am going to. It says back here on Page 15, Article V, "Wages and Conditions Applicable to Highway Construction". Here it says, "All other equipment not mentioned," the rate is $3.31½—that is on a forty-hour guarantee, which, by the way, sir, the job was 2, 4 and 8, which it should have been a forty-hour guarantee. That was another thing that was denied by Mr. Lavery. and there was 8½ cents added to that as of May 1, 1956.

Q. You show me in the contract. A. I just read it to you, sir. If you will come up here I will show it to you.

Q. I have it right here. You are reading from what? A. Page 16, "All other equipment not mentioned".

Q. Now, is it not a fact, Mr. Kaye, that the contract you are reading from does not cover highway work in the State of Delaware? A. Sir, by their own agreement it says, till 1957. So they must have signed another contract that they didn't let us know about.

Q. Can you answer the question? A. Yes, sir.

Q. You know this contract does not cover highway work [1641] in Delaware. A. I was told on the floor it does cover the highway work in the State of Delaware, by Mr. Lavery himself, which was later of course denied—admitted by him that he had signed another contract.

Q. Now, do you recall what the specifications of the job were that you were on? A. How do you mean that, sir?

Q. What was the nature of the job? A. It was a road job. I guess you would say we were resurfacing a highway. I was running this heater-planer—

Q. What was that you were running? A. A heater-planer. It heats the asphalt and then has like a grader blade on and it scrapes the bumps off the highway. There was also another man on the job with me, sir.

Q. Now, what was the name of the employer again? A. Standard Bitulithic Company. They have here on the check stub, Newark 5, New Jersey. They also have a plant in Delaware.

Q. Now, is Standard Bitulithic a union contractor? A. Well, sir, the business agent sent me out there. I hope he sent me on a union job.

[1642] Q. Now, you say that you came under the classification of "All other equipment", is that correct? A. That is right, if there is no listing for it, it has to.

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[1652] MR. FREEDMAN: I now would like to offer, if the Court please, the deposition of Mr. J. Howard McGrath.

MR. O'BRIEN: I ask for an offer of proof, sir, and I prefer to have it at side bar. If Your Honor please.

THE COURT: All right.

(The following took place at side bar.)

MR. FREEDMAN: Your Honor, we intend to prove by the testimony of this witness that Mr. McGrath was engaged by Mr. Halloran to make contact with Mr. Maloney for the purpose of inducing Mr. Maloney to come [1653] into the area and terminate the strike, contrary to his obligations under his own constitution and contrary to law. We also say that the testimony of Mr. McGrath indicates—

THE COURT: Contrary to whose obligations?

MR. FREEDMAN: Contrary to Mr. Maloney's obligation under his own constitution and under the law.

THE COURT: Let us keep to the constitution first. What constitution?

MR. FREEDMAN: International Constitution.

THE COURT: What section of the International Constitution.

MR. FREEDMAN: Which permits the local unions to make their own agreements, and the right to strike, which gives the local unions the right to strike, and in addition to which, the general purport of the constitution gives the local unions autonomy, the right to govern themselves; but in addition to that, the testimony of Mr. McGrath would indicate that there was a conspiracy and certainly an improper alliance or connection between Mr. Maloney and the contractors which was created through Mr. McGrath, and that Mr. Maloney's entry into the picture was induced by means [1654] which were neither proper nor legal nor means recognized in the law.

THE COURT: Let me have the constitution.

MR. O'BRIEN: That is the one that was in effect at the time, sir (handing to the Court).

THE COURT: Where is this part where you say it given them the right to conduct strikes, the breach of which would be in violation of the duties of the General President.

MR. FREEDMAN: You mean the right to make contracts, Your Honor?

THE COURT: Yes.

MR. FREEDMAN: Well, as a matter of fact, Maloney's testimony itself, Maloney admits that the local union has the right to make its own contracts.

THE COURT: I would think that that would be so under his interpretation of the constitution, which would make real legal and horse sense.

MR. FREEDMAN: Now, so far as the right to strike is concerned, the only restriction on the local's right to strike is contained in Article XXIII, Subdivision 11, Section (c), and there the only restriction is that there can be no strke without the sanction of the General President,

if there is a contract in effect. [1655] Here there was no contract.

Now, we say, also, Your Honor, that in addition to the constitution, under the Federal and State constitutions, these people had a right to conduct themselves in accordance with the laws of the land, which gives them certain basic rights, one of which is to govern themselves. Now, we say that Mr. Maloney, by conspiring with the employers, violated the general laws as well as the laws of his own union, and by this testimony we expect to establish that fact, along with other facts.

THE COURT: It would seem to me, Mr. Freedman—I am just throwing this out for what it is worth—in attempting to do that you may perhaps bring far more serious results to the members here. If you prove something like that, it is one thing. If you allege it, and it does not rise to the certainty of proof, it is a pretty serious matter.

MR. FREEDMAN: Well, Your Honor, I think it is a very serious matter.

THE COURT: It is quite a decision for you to make.

MR. FREEDMAN: Yes, I am fully mindful [1656] of it, Your Honor. This responsibility has weighed on my shoulders for a long time, and I didn't take this testimony without much thought, without giving it considerable thought.

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[1657] THE COURT: I think that this matter needs airing, and with the restriction on the use of the record as to releases, statements, or propaganda, I don't think that anyone can be hurt.

MR. O'BRIEN: Well, sir, just to make the record complete, I want to object to Mr. Freedman's offer of proof, for the reasons which I have already stated, and also I do think that the deposition of Mr. McGrath could be misconstrued in some places by some [1658] factions in our political setup, to the detriment of Mr. McGrath, when I per-

sonally believe and I am sure that there is no such reason for misconstruing his position in this case, and perhaps that might have been what Your Honor had in mind when you said it was a grave responsibility on Mr. Freedman, but I do think that people in public life are subject to pot shots.

THE COURT: I think it is subject to greater responsibility with respect to his own clients.

MR. O'BRIEN: That is correct.

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[1665] (The following took place at side bar:)

THE COURT: Gentlemen, I have read these two volume of depositions of J. Howard McGrath, taken September 30, 1955, and June 21, 1956. They contain testimony which I consider to be relevant in the case, and they may be either offered as a physical exhibit, which I ordinarily don't allow, or they may be copied into the record. I am not going to permit them to be read.

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[1712] (It is stipulated by and between counsel for the respective parties that signing, sealing, certification and filing are waived, and that all objections, except to the form of the questions, are reserved to the time of trial.)

J. HOWARD McGRATH, having been duly sworn was examined and testified as follows:

By MR. FREEDMAN:

* * * * * * *

Q. General, are you able to tell us when you were first engaged by any of the Contractor Associations in Philadelphia? A. It was in late May of 1952.

Q. By whom were you engaged? A. By Mr. Myron Jacoby, attorney at law of Philadelphia, who was counsel for the Associations.

Q. Do you remember which Associations? A. No, I don't. I couldn't give you the—

Q. Well, if I mentioned them to you, do you think you might remember? A. Yes.

Q. General Building Contractors Association, The Contractors Association of Philadelphia, and The Pennsylvania Excavators Association. [1713] A. That sounds like it.

Q. Those are the three that were involved in Philadelphia? A. Those are the three.

Q. Now, were you retained on behalf of all three? A. Yes.

Q. Now, what was the purpose of your engagement, General? A. The purpose of my engagement was to review the situation that had existed in Philadelphia with respect to strikes that had taken place there; the actions that had taken place up to that time, including the court cases and the court opinions; to give advice as to whether or not I could see any additional remedies at law that might be pursued, or to give advice and assistance in any administrative processes that might be available to the Contracting organizations.

Q. Well, did you analyze any contracts or anything of that sort? A. I looked at—read the existing agreement that was in dispute at the time, with particular reference as to whether or not it had expired.

Q. You say the existing agreement? A. Yes.

Q. And this was in May of 1952? A. Yes.

[1714] Q. Now, let me refresh your recollection, General McGrath. There was no agreement in 1952, isn't that correct? A. Well, that was the dispute. The dispute was whether or not an agreement was in existence or whether it had expired.

Q. Well, let me again refresh your recollection. The agreement that you are talking about is the agreement which the Contractors alleged extended from May 1, 1951, to May 1, 1952, isn't that correct? A. They were contending that that had been extended for another year or two, and the position of Mr. Underwood was that it had not been extended.

Q. Well, are you— A. This is as I remember it. It is four years—over four years ago, and—

Q. Well, I would like to suggest to you, and the record shows, and perhaps this will refresh your recollection, that the 1-year oral agreement that the Union contended for was from May 1, 1950, to May 1, 1951, and the Contractors alleged that it was a 2-year agreement from May 1, 1950, to May 1, 1952. Now, doesn't that refresh your recollection? A. No. I know that there was—all I remember is that there was a question involved as to whether or not a [1715] certain contract had been extended or whether it had not been extended.

Q. And is it your position now that you were engaged to determine whether the agreement in question extended beyond May 1, 1952? A. No, that is not my position at all. My position is that I was engaged to advise what might be done in order to settle the strike, that was then prevailing.

Q. What might be done? A. If there is any remedies at law that they had not already pursued, or administratively, that I might suggest.

Q. And you say you were engaged directly by counsel in Philadelphia? A. Yes.

Q. Did you carry on your communications with counsel or with the clients? A. I carried on my communications with counsel and with Mr. Halloran, representing the three Associations. I regarded him as a client, as the client representing the Associations.

Q. Did you make any analysis of any agreement? A. As I can recall it now, I read a considerable number of agreements and documents.

Q. Well, I asked you whether you made any analysis of any agreement in order to determine whether there was an [1716] agreement in effect at the time? A. I can't remember exactly that. I came to the conclusion that the position that the Contractors Associations were taking was a proper and legal one.

Q. You mean as to the duration of the contract? A. Yes, as to the duration of the contract, and as to their contention that the strike that was then going on was in violation of the contractual relations between the parties.

Q. Now, it is your position, then, that your opinion was that the strike which was then going on in May of 1952 was in violation of the agreement which the Contractors were then alleging? A. I believe that was the conclusion I came to, yes.

Q. I see. Now, were there any other duties that you could allege of a legal nature? A. All of the duties that I performed were of a legal nature.

Q. And can you state what they were, please. A. I have stated them on the record here, what they were. I reviewed those papers, and the litigation that had preceded. I considered what might be done in the administrative field.

Q. Well, did you do anything in the administrative field? [1717] A. Yes, I did. I went to the Labor Department and had conferences there I think on several occasions.

Q. Who did you speak to? A. The Secretary of Labor, Mr. Maurice Tobin.

Q. Yes, all right. What did you tell him and what did he tell you? A. I can only give you that in to the best of my recollection. I told him that I had been engaged my these Contractors Associations to try to help find a settlement, bring about a settlement of a strike then prevailing in the Philadelphia area which had closed down a substantial part of the heavy construction work going on in that area.

I told him as well as I could at the time what had transpired as I knew it. I asked him if he could give me advice as to any facilities of the Department of Labor that might be used to conciliate these differences and bring about a return to work. In substance, that was my conversation with the Secretary.

Q. Did you have any written communications with him? A. Not at any time.

Q. Did you make any memorandum of your conversations with him? A. Not at any time.

Q. Did you get any communications from him? [1718] A. No.

Q. Now, you spoke of conciliation. Did you go to the department of the—Federal Government Department of Conciliation? A. No, sir, I went to the Secretary of Labor.

Q. Well, I am sure you knew at that time that there was a Department of Conciliation? A. Yes, I knew that, but I thought the Secretary of Labor would suggest the proper course of action for me to follow as he saw it.

Q. What I am trying to find out, General, is you went to him, you say, to find out what could be done in the way of conciliation, and I was just wondering now why you didn't go to the Department of Conciliation? A. Well, I thought maybe in the Department of Labor they might have facilities for intervening in these matters and bringing about a cessation of the strike.

Q. Well, what I am asking you is, you knew that the Department of Conciliation is especially equipped for that specific purpose, and I just wondered why you didn't go to them? A. Well, I went to the Secretary of Labor as the best source of advice in this matter.

Q. What advice did the Secretary give you? [1719] A. He told me that he would be glad to inquire into the matter, and see if there was anything that he could do to assist.

Q. Is that all that he said? A. I believe that is all he said at that first meeting.

Q. How many meetings did you have with him? A. Probably two, but not more than three.

Q. Well, will you tell us everything that was said and done at each of those meetings, please. Will you please conclude with the first one and tell us— A. I think I have concluded with the first one.

Q. Did you finish everything that was said at the first one? A. Substantially, yes.

Q. How long did that meeting last? A. It probably lasted half to three-quarters of an hour.

Q. Did he make it an official matter in the Department, or did he take it informally? A. That I wouldn't know.

Q. Did he make any record of your request? A. He made some notes.

Q. Did you ever find out whether he made any official file for it? A. No.

[1720] Q. Do you know whether he did? A. No, I do not.

Q. I think you said it took you half to three-quarters of an hour; is that what you said, General? A. I think that meeting lasted over an hour, because we—but I remember I had to go out to put another coin in the parking machine, because I had been running simply over the hour my car had been parked; but that could have been because the hour of my appointment, I think I had to wait fifteen or twenty minutes before he saw me. So roughly that conversation took about an hour.

Q. Did you see him alone? A. Yes, at that time I did.

Q. When was your next meeting with him? A. I think the next meeting with him was within a week.

Q. Did he call you, or did you call him? A. I just don't remember.

Q. And what happened? Did you go see him? A. I went back to his office again at that time. He said he had been thinking about this matter of looking into it, that he would like to send a gentleman to Philadelphia to see what he might do to bring about a settlement. It was a gentleman in whom he had a lot of confidence, and told me that he had been successful in these maters, and that if [1721] that was agreeable to me, that he would be glad to ask him to go up there, to Philadelphia.

Q. Is that all that he said? A. Yes.

Q. Had he communicated with anybody that he told you about? A., No.

Q. Do you know whether he had communicated with Maloney? A. No.

Q. Did Maloney's name come up in your first conference? A. No.

Q. You did not even mention Maloney's name? A. No. I was not thinking in terms of Maloney at that time. I was thinking in terms of what assistance we might get from the Labor Department to get this matter settled.

Q. Who is the gentleman that Secretary Tobin had in mind? A. Actually, he brought him in and introduced him to me, and for a long while I remembered his name; but I have searched my memory and I can't remember it, but I am sure Mr. Underwood knows who it is, because I am sure the gentleman talked to Mr. Underwood when he went to Philadelphia.

Q. You don't remember his name? A. No.

Q. Did you talk to the man? [1722] A. I met him in Tobin's office.

Q. Did he sit in on the conference? A. The second time, yes.

Q. And what did he have to say and what did you have to say to him? A. He didn't have much of anything to say except that Maurice Tobin told him he would like to have him go into Philadelphia and look into this matter and see what he could do about it.

Q. And did you add anything to that? A. No. That is substantially all that transpired at that meeting.

Q. All right. And you can't remember his name? A. No, I can't for the life of me remember it. It is a peculiar name.

Q. I see. Now, what happened after that? A. I am sure that—that you can find out who he was, because I am sure that your client knows who he was.

Q. Well, do you know whether a record of these conferences was made in the Department of Labor? A. I don't know that, no.

Q. Do you know whether any file was opened at that time? A. I don't know.

Q. All right. What happened as a result of that conference? [1723] A. Sometime within a week, I would say, I got a call from this gentleman.

Q. Which gentleman? A. The one that I referred to as having been asked to go to Philadelphia by Secretary Tobin.

Q. I see. A. In which he said that he had talked to all of the parties up there and he thought if I came up personally and stayed around Philadelphia with him a few days and sort of acted as an arbitrator, that maybe he could do something with Mr. Underwood.

Q. Did he say anything else? A. That was all.

Q. Did he say that he had talked to Mr. Underwood? A. Yes, he gave me the very definite impression that he had, from this conversation, from what he said about my going there and staying around with him a few days and something could be done with Mr. Underwood.

Q. And what did he mean by that? A. I don't know what he meant by it at all, I can only repeat his words.

Q. You mean in the way of working out a settlement? A. I suppose that is what he meant.

Q. Well, didn't you ask him? [1724] A. No, not particularly.

Q. Where did that conversation take place? A. Well, it was a telephone conversation. I believe he called me from Philadelphia.

Q. I see. Now, did you go to Philadelphia pursuant to that suggestion? A. No. I told him that I couldn't do that unless my clients were willing that I should, that they hadn't hired me to arbitrate this matter for them; they hired me to get such assistance as I could towards bringing about a settlement through proper means, and that before I placed myself in that position I would want to get their authorization; if they wanted me to go to Philadelphia and stay around with him and see Mr. Underwood,

that I would do that, but I would have to get permission from them.

Q. Well, did you try to get permission? A. I passed the information on to them, and they said they didn't want me to do that.

Q. Didn't want you to negotiate with Underwood, is that what they meant? A. No, they said they didn't want me to go to Philadelphia.

Q. I see. Now, during that period of time did you see or speak to anybody else? A. Not while this situation was going on. Somewhere along [1725] that time I concluded that nothing was going to come of this effort that we had made through the Labor Department. I have a recollection that Secretary Tobin called me one day and told me that under the circumstances, that his man couldn't do anything. And that was the end of that.

Q. That is, when you said you couldn't go to Philadelphia? A. Yes.

Q. Did you talk to his man again after that? A. No, I have never seen him since.

Q. Never—you only saw him the first time and you talked to him the other time on the telephone? A. Yes.

Q. And you have given us the complete substance of what was said? A. To the best of my present recollection, I have.

Q. Now, all the time that you were speaking to Secretary Tobin, did you talk to anybody else or did you see anybody else relative to this matter? A. I don't think I talked to anybody else. I may have talked to people around here about my being engaged in this—having this engagement. I do not have any particular recollection of anyone that I might have talked to, but it is fairly possible that I might have mentioned the subject.

Q. What I mean is, General, whether you talked to anybody [1726] else with the view to effecting a termination of the strike. A. No.

Q. That is what you went to Secretary Tobin for, wasn't it? A. Yes.

Q. Now, who else did you see after that—and I take it, then, that you neither saw or spoke to anyone else during this period of time that you were talking to the Department of Labor? A. No. I followed that course until it had come to its end.

Q. Did you talk to anybody else in the Department of Labor during that period? A. I have a faint recollection that at one of our meetings over there—in the first or the second—the Secretary had some assistant come into his room and sit there, but I couldn't tell you who it was. It was nobody that I knew.

Q. Was he making any notes? A. I don't recall that he did.

Q. Did he participate in the conversation? A. No.

Q. At any time during that period did Secretary Tobin communicate with Mr. Maloney or with Mr. Meany or anybody else that you know of in connection with this matter? [1727] A. Not that I know of.

Q. Well, when you say not that you know of, let me expand that. Do you know or did you hear or do you have any information that he did? A. No, I have no information that he did.

Q. You never heard that he did, either? A. No.

Q. At any time? A. Not during this interval that we are speaking about.

Q. I see. Well, did he make the contact at any time beyond that period? At any period? A. Not to my knowledge.

Q. Well, you said before "during this interval." Did he do it at any other interval? A. Not that I know of.

Q. Then I take it that so far as you are concerned, you never heard or knew of Secretary Tobin communicating in any way with Mr. Maloney regarding this matter? A. It is possible that he did, but I have no recollection of it.

Q. Did he ever talk to you about it? A. Not that I can recall.

Q. Did you talk to the Secretary at any time in between those three conferences or after those three conferences? [1728] A. About this case?

Q. Yes. A. No.

Q. Never mentioned it at all? A. I do not have any recollection of ever having discussed the matter with him again.

Q. Did Maloney's name ever come up in connection with your conversations with him? A. I can't recall that it did. He may have mentioned Maloney's name but—as being head of this International Union, but if he did, it was quite incidental, and I have no present recollecton so that I could say that he did or he didn't.

Q. Did you ever bring Maloney's name up? A. I don't believe I did.

Q. All right. What did you do after that? A. I next decided that I would attempt to get the International to give a hearing to my clients through Mr. Maloney.

Q. And whose suggestion was that? A. It probably was the suggestion of the clients. I believe they suggested that if they could have a fair hearing of their dispute, that they could get fairness and justice worked out. And I then undertook to bring about a meeting [1729] with the International.

Q. Now, when was the last time that you had any contact with Secretary Tobin? A. On this matter?

Q. Yes. A. As I have stated, it was either on that second or third occasion I visited his office.

Q. Yes. Well, now, you said that you were retained early in May, is that right? A. Late May.

Q. Was it late May? And how long did your conferences and your contacts with the Secretary take? A. I think probably the better part of two weeks. I can't be too certain about that.

Q. Did you know Secretary Tobin quite well? I take it you did? A. Oh, very well.

Q. He sat in the Cabinet with you? A. Yes. We were very good friends even before he came to the Cabinet.

Q. Just so we have the record straight, at the time you undertook this engagement you were no longer Attorney General, is that right? A. No, sir, I had not been Attorney General for about three [1730] months.

Q. Three months. At that time you were operating out of your home? A. I was operating out of my home and a downtown office where I had been invited to come in and use desk space until I decided exactly what I wanted to do, whether I wanted to join that firm or whether—I was undecided.

Q. What firm was that? A. Dow, Lohnes.

Q. Where were they located? A. The Munsey Building.

Q. Did you have your name on the door? A. No, I never put my name on the door.

Q. Did you have a listing there? A. No.

Q. And what place in the office was apportioned to you? A. That was apportioned to me?

Q. Yes. A. I was invited by Mr. Paul O'Brien immediately after I got out of the Department to come into their office. That is the way he put it. And I said I wasn't sure what I wanted to do, that I thought I was going to take pretty much of the summer to think the thing over, but in the meantime I would—I knew I was going to practice law here [1731] in Washington, but just how I didn't know.

He said, "Well, why don't you come into our office until you decide it?"

So I accepted that. No particular place was assigned to me, because they have about a dozen rooms down there, and he said, "Use any room there is in here, and the stenographers will take care of any letter-writing that you want to do."

So I maintained that as my downtown place of doing business.

Q. Did you put your name on the board of the building? A. No.

Q. Did you send out any announcements at all during that period? A. No, sir, because I wasn't certain I was going to stay there.

Q. And when did you first open an office? A. I believe it was in September.

Q. Of 1952? A. Yes.

Q. I don't know whether I asked you, but can you tell us when you terminated your relationship with the Government as Attorney General? A. It was in March of 1952.

|1732| Q. March of 1952? A. Yes.

Q. The end of March? A. March or April of 1952, I am not sure. But I think it was early April.

Q. Early April of 1952? A. Yes.

Q. Now, you said that after your conferences with Secretary Tobin you did have another conference with your client in the basis of which you were instructed then to make contact directly with Maloney, isn't that correct? A. Yes. We agreed that I would try to get them a conference with Maloney.

Q. Was that the purpose of it, just to get a conference with Maloney? A. Get them a hearing before Maloney.

Q. Were you to participate in that? A. Not necessarily. I was to get them a hearing.

Q. I see. Well, now, tell us exactly what you did, General. A. Well, I had known Maloney previously, but—when I say I had known him, I just had a very casual acquaintance with him. I had met him as I probably had met the heads of all of the Internationals, because we used to have political |1733| meetings with them when I was Chairman of the Democratic National Committee.

Q. What kind of meetings? A. Political meetings.

Q. Oh, political. I see. A. And so I felt that I had met all of the International presidents and knew them, but I didn't know Maloney intimately enough to feel that

I just wanted to walk in cold on him, so I called Mr. George Meany whom I knew intimately. His daughter had for many years been one of my secretaries.

Q. While you were Attorney General? A. She was with me in the Attorney General's office, and she was also with me in the Senate. She came with me from the—she went from the Department of Justice to the Senate with me and then came back with me to the Department of Justice and remained with me all during the time that I was Attorney General.

Q. Did she come with you when you left the Government? A. Yes. Worked for me here, until she retired to have a family.

Q. When was that, General? A. When she retired?

Q. Yes. A. I think that girl—

[1734] Q. Just approximately. A. Yes, that is all I can give you. I think she stayed here with me, it seems to me, till sometime in the summer of 1953.

Q. I see. A. In other words, I think she was here with me for about eight months or something like that.

Q. I see. It covered these proceedings, anyway. I mean it was during the period that you were engaged in these proceedings? A. Well, no. She—to the best of my recollection, she didn't come out of the Department of Justice immediately when I did, but shortly thereafter, and then came back to work for me.

Q. I see. A. I can't tell you exactly when she came. It might have been a month or two after I left.

Q. All right. Now, you tell us what happened. A. I called George Meany, whom I say I knew quite intimately, and I told him that I had been engaged by these Associations that were having very serious labor difficulties up in Philadelphia, and that I would like to get a hearing for my clients before Mr. Maloney, who was the International President.

[1735] Q. Did you tell him what it was all about? A. No, sir. I just identified the fact who they were and that they were—all I wanted was to get a hearing.

Q. Did you tell him what the basis for the hearing was? A. No, I didn't go into any detail with him, no.

Q. You didn't even tell him there was a strike involved? A. I am sure I told him there was a strike involved, and that the men were out of work, and that these Associations wanted to get a hearing from the International.

Q. And did you tell him what your purpose was, to effect a termination of the strike? A. No, I told him I wanted to get them a hearing before the International. I suppose he assumed that that was the purpose, of bringing about a cessation of the strike.

Q. I see. What else did you say to Mr. Meany and what did he say to you? A. I asked him if he would be willing to call Maloney and ask him if he would receive me if I went out with a representative of these Associations. And he said, "Yes, I will be glad to do that."

So that is the conversation I had with him.

Q. Is that all that he said? A. That is all he said.

Q. And is that all that you said? [1736] A. That is all.

Q. After you explained to him what you said that you did before? A. I didn't say I told him what I did before.

Q. No, I said you related before what you told him. I did not want to cut you down now. A. Substantially, I told him I was representing these Associations, that there was a serious strike situation in the Philadelpha area; that they had a grievance; that they thought they weren't getting justice, and they wanted to appeal to the International Union, and would he be good enough to ask Mr. Maloney to receive me if I went out there with a representative.

Q. When did that conversation take place? A. Well, that must have been sometime around the middle of June.

Q. June of 1952? A. Yes, sir.

Q. Where did that conversation take place? A. That was a telephone conversation.

Q. Where were you at the time? A. When I called Mr. Meany?

Q. Yes. A. I can't remember exactly. I don't know—whether I, [1737] was downtown or whether I was at home.

Q. And where was he? A. He was in the—I presume I reached him at the offices of the American Federation of Labor.

Q. Very well. Following that conversation, what happened? A. He said he would be happy to call Maloney for me, and he apparently did, because I subsequently received a call back from him saying that Maloney would see me.

Q. And did he tell you when and where? A. No. I believe—this is to the best of my recollection: I believe that when he told me that, that I probably called Maloney and asked for the appointment.

Q. Did he tell you where to reach Maloney? A. Well, I knew where to reach Maloney. I knew that the International offices were in Chicago.

Q. Well, didn't you know they also had an International here in Washington? A. Well, I knew he was in Chicago.

Q. How did you know he was in Chicago? A. I don't know.

Q. But you did know at that time? A. But I knew it, anyway. I can't tell you how I happened to know that at the particular moment, but I knew [1738] it. But I had always associated Maloney with Chicago.

Q Can you tell us why you got that impression, or when? A. I suppose it is just the general impression that I had from knowing these various labor leaders.

Q. Now, in your discussion with Mr. Meany, did you mention who your clients were? A. I can't say now whether I spelled out the name of each of the Associations, or whether I simply said I represent three of the Contractors Associations. I could have said it either way. I am not sure.

Q. At that time had you been in touch with Mr. Halloran? A. Yes, I believe I had.

Q. And did he know that you were contacting Mr. Meany? A. No, I don't think he knew that. He might have known it. I might have told him. He knew that I was taking steps to get a conference with Maloney, but I don't think I went into detail as to how I was going to do that.

Q. But you were in contact with Mr. Halloran at that time? A. Yes.

Q. Direct contact with him? A. Yes.

Q. Or at that time were you calling the attorneys and having them contact Mr. Halloran? [1739] A. Well, mostly that, but at some point along there I met Halloran and I had some conversations with him.

Q. When was that? A. Well, I can't tell you exactly. It was all relatively within this short period of time in which we were trying to set up an appointment in Chicago.

Q. Well, now, did you have your first conversations tion with Mr. Meany, you said that you called Mr. Maloney? A. I wouldn't remember that. I am quite sure it was before, because we agreed that our course of action would be to try to get a hearing before the International, and I would not have pursued that course without having their consent, any more than I would have gone to Philadelphia without their consent.

Q. And you were supposed to represent Mr. Halloran in these conferences? A. I represented Mr. Halloran, who in turn was the spokesman for the Associations.

Q. I see. A. He was the client.

Q. I understand that. Now, following your conversation with Mr. Meany, you said that you called Mr. Maloney? A. I probably did. I just don't know how the time and place of the appointment was set up, so I presume that I must [1740] have called and made the appointment.

Q. How soon after your conversation with Mr. Meany? A. I probably did it almost immediately. I didn't keep any

time clock on these movements, but I certainly wasn't letting any time be lost.

Q. And when did you set the meeting up for, do you recall? A. No, I don't.

Q. Well, how soon? Was it a matter of days or months or weeks? A. Oh, no. It was a matter of days.

Q. And where was the appointment set up for? A. It was set up for the headquarters of the Engineers in Chicago, Illinois.

Q. And are you sure you talked to Maloney yourself and not Mr. Meany? A. I talked—you mean before I went out there?

Q. That's right. A. I can't be 100 per cent sure of it. It could be that Meany said, "He will see you at a certain time." It could have been that way, or maybe I called. I have no recollection of how that happened. After all, again I want to have the record show that we are talking about telephone calls and incidents that happened well over four years ago.

Q. I understand that, General. I think the record reflects [1741] that quite well. A. I am answering your questions to the best of my present knowledge.

Q. Now, after you set that appointment up, you said, I think, that it was a matter of days after the appointment was set up. You said, I think, the appointment itself was set up a matter of days after the telephone call to Mr. Meany, is that right? A. Yes.

Q. Then what happened? A. Well, on the day of the appointment both Halloran and myself went to Chicago.

Q. Just the two of you? A. Yes.

Q. Go ahead. A. And we kept the appointment with Mr. Maloney.

Q. Can you state when that was? A. Not exactly.

Q. Where was it, at the office of the Engineers? A. Yes.

Q. Can you state approximately when that took place? A. No. I don't know. It is somewhere around the middle or the 20th of June. It was in the morning, about—

Q. I think before you said that—in order to get the |1742| record straight—that you saw Mr. Meany somewhere around the middle of June of 1952. A. Yes, that is possible.

Q. And that this appointment took place— A. I have no records that indicate these dates. I kept no diary.

Q. I am just trying to get your best recollection. A. My best recollection is that it proceeded about that way.

Q. About the middle of June. And that the appointment with Mr. Maloney came about a few days later, is that right? A. Yes, roughly that.

Q. Or was it less than that? A. I am sure it wasn't less than a few days.

Q. Well, what is your best recollection on it? A. My best recollection is that it was within four or five days.

Q. I see. Well, now, you tell us what happened at that conference. What time of the day did it take place? A. In the morning. Around ten o'clock.

Q. You called at his office, and you tell us what happened, please. A. We went to the office, and when Maloney saw us, he escorted us into his office. And I introduced Halloran. |1743| And he said, "Oh," he said, "I know you."

Q. Who, to Halloran? A. Yes. And he was rather gruff about the whole matter. And he said, "I know what you are down here for," he said, "but what can I do about it?"

Q. Did Maloney remember you? A. Yes.

Q. And you remembered him? A. Certainly. I could have gone out to Maloney cold, but I felt that if I could have Mr. Meany call him and say I was coming out, I might get a better reception than I would if I just went out cold.

Q. I see. A. Even though you know people, sometimes you like to have them feel that you are coming under proper auspices.

Q. I see. Now, what happened after that, can you tell

us? A. Well, for the first few minutes of our conversation Maloney was pretty rough with Halloran. He was pleasant as far as I was concerned, but he was rough and gruff with Halloran. He said, " I know what you are out here for." He said, "What can I do to help you?" He says, "You fellows won't help yourselves." He says, "You refused to have arbitration," and then this, that and the other thing, and he [1744] let off a string of complaints that he had apparently heard about the Associations' conduct, and after it went on—

Q. And that was all in your presence? A. That was all in my presence, yes. After it went on for a little while, I said, "Now, look, Mr. Maloney," I said, "Mr. Halloran here and I feel that you probably haven't got the straight story on this, and that is what we come out here to give you. We don't want you to do anything except to listen to us and give us help if you feel that—if you feel that our complaint is a just one."

Q. You said this to Maloney? A. I said this to Maloney, substantially this. I am not quoting exact words. But I wanted to ease off the tension that I could see was building up right away, and so I broke in and said, "Can't we sit down, and won't you let Mr. Halloran tell you his story."

And Maloney said, "Well, all right, go ahead."

And Halloran started to speak to Maloney and told him—I don't intend to tell any conversations that I heard from Halloran, because he is the client. However—

Q. Well, General McGrath, I want to remind you that these are not—the conversations that took place between Halloran and Maloney and you are not privileged. The only thing which is privileged at best are the confidential communications [1745] between you and Halloran alone, and I have not asked you to disclose those. A. You may be perfectly right. However, I couldn't give you any testimony as to that. I remember in a very general way Halloran starting in to review the whole background of the strike situation that they had there and so on, and

then I left the room. I believe I left in response to a long-distance telephone call. I went out of the room, and I was on the long-distance telephone for some time. And when I got through I talked around to some of the clerks out there, and I don't even remember whether I went back into the conference room, or whether they met me coming out. I am inclined to think that—my recollection is that they—they came out of the room together, and Maloney said, "I am going to look into this matter." He said, "I am going to send—I am going to get a hold of Carter," and he said, "I am going to send Carter in there. He is a man I can trust, and he will tell me the truth of this matter, who is right and who is wrong." Words to that effect.

And Halloran seemed very pleased with that promise of action. And so I said no more about it. I thanked him, and we bid him goodby.

Q. Now, how long did that entire conference last? A. Half hour.

[1746] Q. How long were you in on the conference? A. I probably—this thing probably went on for seven or eight minutes of Maloney sort of berating—I thought he was rather berating Halloran, blaming Halloran for not cooperating and not submitting to arbitration and not being willing to do various things that apparently had been reported to him. And when I finally got an opening, I butted in and said exactly what I have reported here.

Q. And how long were you in the room originally altogether before you left? A. Oh, maybe ten minutes.

Q. Ten minutes? A. Maybe that long.

Q. And then you left, and what was the reason for leaving? A. I believe that somebody came in and said I have a long-distance telephone call.

Q. Where was it from? A. I don't remember.

Q. You don't remember who called you? A. No.

Q. Or— A. No, I don't.

Q. Are you sure? A. It could have been from Washington. Undoubtedly was from [1747] Washington, and

I am not sure, and if you asked me who called me, I couldn't tell you.

Q. You don't know who called you. How long did you speak on the telephone? A. Oh, I don't know. It seems to me I spoke probably ten minutes, eight minutes.

Q. Eight minutes? A. I don't know.

Q. And you don't know who called you? A. I don't remember who called me.

Q. You remember receiving a call, and you talked for about eight minutes— A. Somebody came in, as I recollect, and said, "There is a long-distance telephone call for you." And I showed me—took me out and showed me where to take it.

Q. I see. A. Beside the switchboard. And when I got through, I stood by and talked to a couple of the girls at the switchboard there for a few minutes, just passing the time of day.

Q. How long did you remain outside the conference room while Mr. Halloran and Mr. Maloney were conferring? A. Well, I remained outside all the time that they were conferring.

[1748] Q. How long was that? A. It could be twenty minutes, it could be fifteen minutes, it could be twenty-five minutes; I don't know.

Q. I see. Was that after you got finished with your telephone call? A. No, during the telephone call, during the time I loitered outside.

Q. How long did you loiter outside? A. I just don't know.

Q. Well, let us have your best recollection. A. Well, I have no recollection about it. I told you that when I came out of the room I didn't go back while there was any conversation going on.

Q. Why didn't you go back? A. I thought the conference was going to last much longer than it did. As a matter of fact, I was quite surprised when they came out of the conference room. I probably met them right at the door coming out.

Q. I see. And why didn't you feel you wanted to go into the conference room? A. I was in the conference—

Q. I say, after you got through your telephone call. A. I thought I had plenty of time to go in. I passed the time of day for a few minutes with the telephone operator [1749] there. I had every intention of going back in. And I thought the conference was going to last an hour or more, and I was quite surprised when it ended so abruptly. As a matter of fact, I was quite taken aback, because I was afraid that they had probably gotten mad at each other and the thing was called off, but Maloney spoke up and said that "I am going to look into this matter, and I am going to send Carter up there."

Q. In other words, it was a relatively short time between the time you went out and the time they reached some sort of an understanding? A. The understanding that I think they reached was that Maloney told Halloran that he would look into the matter. He told him how he was going to look into it, through Carter.

Q. But that took time—well, between the time you said that you went to answer that telephone call and the time—well, all right, the record will speak for itself. Just strike that out. A. I can't tell matter of minutes. You get on the telephone and you don't know whether you are hanging on there ten minutes or eight minutes or fifteen minutes.

Q. And you don't know what conversation or what took place while Halloran was alone in the room with Maloney? [1750] A. No.

Q. Did Halloran tell you afterwards? A. No. As soon as we come out, he said, "I am glad that we got out of there." He said, "Let's go to a hotel." He said, "I am sick."

And so we went over to the Palmer House and got a room, and he went up and went to bed. He was sick to his stomach, and throwing up, and I had a reservation—we had reservations to come back on the afternoon—one of the good afternoon Pennsylvania trains. It looked for a while as though we might not make it, but finally Halloran

said, "I think I am all right. I think I can make it."

So we had reservations to come back to Washington and he was going to go off to Harrisburg to New York. I asked him—I guess he was going into Philadelphia. I asked him if he wanted me to change my reservations to go through with him, and he said, "No," he said, "I think I will be all right after I go to bed."

So we got on the train, and he didn't even want to have anything to eat. I had my dinner by myself.

Q. This was on the train? A. This was on the train.

Q. From Chicago coming East? A. He got out of the bed in the hotel just in time to come [1751] with me to the station. I think he was sick on the train a couple of times, had to go to the rest room.

Q. Do you know whether Halloran had any money with him when he came into that conference with Maloney? A. I don't know what he took with him. He was—to the best of my recollection, he was carrying no brief case.

Q. Carrying nothing. But you couldn't tell what he had in his pocket, could you? A. Certainly not.

Q. Of course not. A. I certainly do not think that he could have committed any bribery in the length of time that he had to get acquainted with a man of Mr. Maloney's character.

Q. Well, that is something that is going to have to be decided by somebody else. A. That is a conclusion, of course, but I have a right to make an observation about it, since you make the inference that there was something of that kind.

Q. I am not asking you for your observation in that respect. A. I don't think your question was even called for.

Q. Well, that is something that I will have to decide myself, General. Now, what did you do after that? A. I came back here to Washington.

[1752] Q. Did you have any further contact with this case? A. Yes.

Q. What was it? A. I kept in contact with Halloran.

Q. You mean Halloran gave you reports after that? A. We had telephone conversations.

Q. You mean you and Halloran? A. Yes.

Q. And was that for the purpose of him reporting to you what was going on? A. As to how he was—what the situation was with respect to the strike.

Q. Where did he call you from? A. Oh, I suppose he called me from his office.

Q. Philadelphia? A. Yes. And I also think he called me several times from his summer residence.

Q. Where was that? A. I think it is somewhere near Atlantic City, but I am not sure of the place.

Q. Did you call or see anybody else following your meeting with Maloney? A. No.

Q. You mean your only contact beyond that point was simply [1753] getting these calls from Mr. Halloran? A. That's right.

Q. You did not do anything pursuant to those calls? A. No. It was a matter of keeping informed of what was going on, what the situation was with respect to the strike.

Q. And you never called Maloney after that? A. No, I think that is the last time I ever saw—I don't believe I have seen Maloney since that time.

Q. Since that one time in Washington? A. In Chicago.

Q. Excuse me, I meant in Chicago. What about Mr. Meany? Did you talk to Mr. Meany about this following your first conversation with him over the telephone? A. Never again.

Q. Never talked to him again since that time? A. No, sir.

Q. Am I to take it, then, that your services in this matter were terminated with your conference in Chicago, except for these conferences that you had with Mr. Halloran after that conference? A. Well, it wasn't exactly terminated. I thought the engagement still went on,

if there was anything that I could do. The matter did proceed from there without any further attempts on my part to influence it one way or another.

[1754] Q. How many conversations did you have with Mr. Halloran? A. Telephone conversations?

Q. Any kind of conversations. A. Maybe a dozen.

Q. That was after your meeting with— A. Some before; some after.

Q. How many after? A. Gee, I don't remember.

Q. Well, your best recollection? A. Well, I haven't any good recollection on it.

Q. You say he called you a number of times? A. A number of times. It could have been a half dozen, it could have been a dozen. I just don't know. He kept me informed what the situation was. He never did ask me to do anything specifically about it.

Q. How frequently did he call you? A. It could have been once or twice a week.

Q. And over what period of time did that extend? A. It seems to me that that probably extended well into July.

Q. Would you say the latter part of July? A. Well, I don't know. I don't remember. I know it was in July, because sometimes he called me at my home in Rhode Island, and I was up there—I went up there in July [1755] for the summer.

Q. And you are sure it did not extend into August? A. It could possibly have done so, I just don't remember.

Q. Are you sure that you did not communicate with, directly or indirectly with Mr. Maloney following that meeting in Chicago? A. No, sir.

Q. What about anybody in Mr. Maloney's office A. No, sir.

Q. Did you know Arthur Hill? A. No, sir.

Q. Do you know him—have you ever heard of him? A. I don't place him.

Q. Did you know Mr. Wharton? A. I don't place him.

Q. Did you know anybody else who was connected with the Operating Engineers at that time? A. No, I didn't.

Q. Did you know anybody else that knew Mr. Maloney at that time that you were in touch with? A. No.

Q. Were you compensated for your services, General? A. Yes, I was.

Q. How much were you compensated? |1756| A. Well, I think that is a confidential matter.

Q. Judge Clary specifically said that so far as compensation to the counsel are concerned in this case, it should be disclosed. A. Judge Clary said that?

Q. Here is the order. You can read it yourself. I direct your attention particularly to Page 8 of the transcript of the meeting in Judge Clary's chambers on June 18, 1956. A. Which paragraph?

Q. Right here. Oh, no. Here. A. Well, he doesn't say that anything that was paid to counsel is relevant.

Q. Oh, yes he does. Reading the preceding pages, and you will see that was exactly what was discussed. A. Is that the point that you were making?

Q. Yes. Read it here and you will see. It starts right here, and you will find it also relates to counsel fee. Read right through here to the end of Page 8. A. I don't know that he is talking about counsel fees.

Q. Well, if you will read what Mr. McHugh says, he brought it up directly, and it was ruled on, and it was specifically referred to by the Court; that Mr. McHugh, as you will notice there, even specifically mentioned his fee and the fees of other counsel, and the Court squarely stated there that that |1757| was something that would have to be disclosed, as you see from those notes. A. Well, I feel that Judge Tamm has protected me in this matter. He has said in these exceptions that he has made to the things that I should testify to, he has clearly said the dates of retainers, and he must have had retainers in mind and specifically did not include them. So I think I will decline to answer on the basis of Judge Tamm's order.

Q. Was it a substantial amount of money, General? A. Yes, it was a good fee.

Q. General, did you give any part of the moneys which you received to anybody else? A. Yes.

Q. To whom? A. A referral fee to Mr. Jacoby.

Q. Anybody else? A. No, except Uncle Sam.

Q. General, did any other moneys come into your hands which you might have given to anybody else or passed on to anybody else? A. Never at any time.

Q. General, do you know of any moneys which may have been passed from the Contractors in this case to anyone other than yourself? [1758] A. I certainly do not. I do not know it and never knew it, nor did I ever hear of it.

Q. Did you know that Mr. Halloran was meeting with Mr. Maloney following your first visit with him, or had gone to see him? A. No, I didn't. I want to clarify that answer by saying that I do know that Halloran had other conversations with Maloney; whether they were telephone conversations or whether he met him personally, I do not know, but I can gather from his reports to me that he had talked further with Maloney.

Q. General, did you know what the issues in this strike were? A. Well, I am not—I do not have them in mind now. I have told you what I did in connection with the matter.

Q. Well, did you know at that time what the issues were? A. I am sure I knew at the time, but I have forgotten them, what they might have been—or, what they were.

Q. Did you get the issues from Mr. Halloran and your referral counsel? A. Yes.

Q. Were you told that there was a contract in agreement with this Local Union already in the area with other Contractors? A. I think I was told that some Contractors had signed an [1759] agreement.

Q. Did you know what was in that contract? A. No, not that I specifically remember.

Q. Did you ever see the contract? A. I couldn't answer that yes or no. I don't remember.

Q. Did you ever examine the contract? A. If it was shown to me, I am sure I read it. A. Well, do you have any recollection of ever having examined it? A. No.

Q. Do you know what the demands of the Union were at that time? A. I can't remember what they were now, if I ever knew them.

Q. Well, do you have any recollection that you know them at that time? A. I am pretty sure I was pretty well briefed by Mr. Jacoby on what the issues were.

Q. Well, did you know the—then you must have some recollection of what the Union was claiming. A. Well, after this length of time I couldn't tell you. I have many other things to occupy my mind since then, and I have no present recollection of what those issues might have been.

[1760] Q. Well, if I were to tell you that one of the demands of the Union was a demand for a pension, would that refresh your recollection? A. Yes, I know that the pension and Pension Fund was involved, but how it was involved I do not now remember.

Q. Well, let me tell you. I think perhaps you may be confusing the Pension Fund with the Welfare Fund. Did you know that there was a Welfare agreement already in existence? A. I have a recollection that there was a Welfare Fund issue involved.

Q. Yes, that was one thing. Now I am talking about a demand for a pension in the new contract. Would that refresh your recollection any if I told you one of the demands was for a pension? A. It would not be fair for me to answer that one way or the other, because I have no recollection of what those issues were, and it doesn't—

Q. It doesn't refresh your recollection? A. Beyond the Welfare and Pension Funds were involved, it doesn't refresh my recollection as to any of the details, or just what the issue was with respect to those funds.

Q. Would it refresh your recollection any if I told you that another one of the demands was for a safety code? A. It does refresh my recollection to know that something [1761] about safety code was involved.

Q. Are you in favor of a safety code? A. I don't think that is relevant to this examination.

Q. Well, I am asking you, and I think that it still is— A. I don't mean that. I am in favor of a Welfare Fund and of a Pension Fund, and I am also in favor of whatever else it is you mentioned here.

Q. Well, let us start with that, then. Then you say that you were familiar with the issues which are involved; and, therefore, you must have been familiar with the demands of the Union. Now, you knew at that time that Pension Funds weren't anything new in the industry all around the country; you knew that, didn't you, General? A. Oh, yes, that's right.

Q. Then why would you object to this demand for a pension or a safety code or any of these other things which were being demanded? A. I wasn't negotiating that settlement. I was representing my clients to get a hearing before the International Union and before the Labor Department. I figured that those issues were involved, that the experts would know more about that than I would. That is one of the reasons why I didn't want to go to Philadelphia and pretend to be an arbitrator in a labor dispute, when I knew little or nothing about these [1762] matters.

Q. Well, General, you had a very important position in the Government which had to do with labor, and I am sure you knew the jurisdiction of the Department of Labor, did you not, at the time? A. Oh, yes, I knew that.

Q. You knew that the Department of Labor did not embrace this type of thing, didn't you? A. It might well be that Mr. Tobin could have made some suggestions to me. Maybe he might suggest I go somewhere else, to the Conciliation Service or somewhere else. He didn't do that, however; he chose to send a representative up there.

Q. Who suggested you come to Philadelphia? A. Yes.

Q. And you did not? A. I did not.

Q. Were you familiar with the fact that the A. F. of L. Convention at Atlantic City during that summer considered this particular strike? A. To this extent, that I think that is one of the things that Halloran told me on the telephone—in his telephone conversations, that the matter was going to be discussed, or going to be taken up there.

[1763] Q. Was going to be taken up? A. Either was going to be taken up or had been taken up as a subject matter.

Q. Pursuant to that conversation, did you do anything? A. No, not a thing. I was not asked to do anything.

* * * * * * * *

[1767] Q. General, you said something before about attempting to get a fair result. Didn't you think it was important to get Mr. Underwood's side of the picture before you made your mind up? A. Well, I was representing the Associations, and they knew what they wanted me to do, and I tried to accomplish what they wanted. They wanted to get some conciliation service or intercession by the International Union. They apparently had exhausted their efforts with Mr. Underwood before they came to me.

* * * * * * * *

[1769] Q. Did you know William Carter? A. No, I did not know Carter.

Q. You heard his name referred to? A. Yes. I did not know him, never met him.

Q. Did you find out who he was at that time? A. Well, Maloney said he was one of his men in that area that he could trust. It seems to me he said he was in New Jersey. It seems to me he said, "I will get Carter in New Jersey and he will tell me the truth about this matter. I can trust him."

Q. That is what Maloney said after he came out of the conference room? A. Substantially that.

Q. Did you find out who Carter was afterwards, or didn't you make any inquiry? [1770] A. No, I didn't

make any inquiry. I figured that Carter was one of Maloney's field men.

. . . . . .

[1875] MR. FREEDMAN: If the Court please, I have Mr. Jacoby here in court now, and I could just introduce the one phase of the testimony with him.

THE COURT: Very well.

MR. FREEDMAN: Counsel would like to have a discussion with Your Honor at side bar.

(The following discussion took place at side bar):

MR. JACOBY: Judge Clary, in this matter here they wish me to testify as to the amount that was paid to Mr. McGrath. I have no objections to that, and I know what the figures are.

They also would like me to testify to the fact that I received a forwarding fee. It seems to me that is something that is of a pretty personal nature to me, and while I have no objection to telling you that I have received a forwarding fee, I certainly wouldn't want it printed around in the newspapers the 179 clients that I had at that time, and this came to me not because of any prearangement, but it was sent to me after I cleaned [1876] the entire matter up. It was not a conditional arrangement.

THE COURT: Can we not put of record here what we got?

MR. FREEDMAN: Whatever Your Honor wants.

MR. O'BRIEN: All right.

MR. JACOBY: I will be glad to.

THE COURT: All right, as an officer of the court you can tell me and we will put it of record here.

MR. JACOBY. I will give you the entire statement.

I paid Mr. McGrath two checks, one for $5000 at the end of May, 1952, and another ceck for $20,223.20 at the end of October, 1952. Of that total sum, $223.20

represented his expenses to Chicago, which included the railroad transportation for Mr. Halloran and himself and the hotel bill.

Mr. McGrath in November of 1952 sent me a check for $10,000 as a forwarding fee.

[1776] GEORGE MEANY, having been duly sworn, was examined and testified as follows:

By MR. FREEDMAN:

Q. Mr. Meany, you are the president of the American Federation of Labor? A. Yes, sir.

Q. When did you first come into office? A. As president?

Q. Yes, sir. A. November 25, 1952.

Q. What was your position during the summer of 1952 in the American Federation of Labor? A. Secretary-treasurer.

[1777] Q. Of the national organization? A. Of the American Federation of Labor.

Q. Yes. And you were actively participating in all of the affairs of the A. F. of L.? A. I was participating in affairs of this office, whatever duties that devolved upon me. You say actively participating in all of the affairs of the organization—

Q. I mean in so far as it affected your office. A. Yes. That would be a hell of a big job. Yes, in so far as they affected my office.

Q. Do you know William E. Maloney, president of the International Union of Operating Engineers? A. I do.

Q. How long have you known him? A. Twenty years, more or less.

Q. Do you know him well? A. I know him quite well, yes.

Q. Were you intimately acquainted with him in the summer of 1952? A. Yes, I knew him quite well. I know him for twenty years.

Q. When in 1952 did you become aware of the strike of Local 542 of the International Union of Operating Enineers [1778] in the Philadelphia area? A. Well, I assume you mean the strike of the engineers in that area. I don't know anything about the local number. I couldn't identify that.

Q. Yes, that is Local 542. A. Yes, I became aware that there was a strike or a threatened strike, and I can't tell you which—whether the strike was actually on—sometime in the late spring or early summer of 1952, I couldn't tell you the date.

Q. And how did you become aware of it? A. Through a telephone call from J. Howard McGrath.

Q. Can you place that telephone call with respect to time, please? A. No, I can't. I can just say roughly sometime in the early summer or late spring. I would say roughly it was in June, but that is a guess. It could have been in May. I don't know.

Q. Was any record of the telephone call made? A. Any record?

Q. Yes, sir. A. Where? In this office?

Q. Anywhere. A. No. Not so far as I know.

[1779] Q. Was any memorandum of it made? A. No.

Q. Will you state what occurred in the court of that telephone conversation? What was said, please? Why did he call you? A. Well, he called me and told me that he was representing an employer or a group of employers—I am not sure of that—and that they were having—that there was a strike either threatened or started, and again I am not sure whether the strike was on or whether it was about to start. I couldn't tell you. And that he would like to contact President Maloney of the International Union of Operaing Engineers. And he said that he didn't know him, and he asked me if I knew him, and I said I did.

And he asked me if I could arrange for him the see President Maloney, and I told him I would try to do that. And he felt that if he talked to President Maloney, that he might be able to find some way to bring about a peaceful settlement of this dispute.

Q. You say he did not know Mr. Maloney?

* * * * * * *

[1780] MR. WOLL: He said he said he didn't.

MR. FREEDMAN: Please don't interrupt.

THE WITNESS: I said—and I am quite sure that you can hear—I said that he told me that he didn't know Mr. Maloney.

By MR. FREEDMAN:

Q. Did he give you any reason why he could not call Mr. Maloney directly? A. No.

Q. Well, didn't you ask him that? A. I did not.

Q. Well, don't you think it would have been proper for him to contact Mr. Maloney directly?

MR. THOMAS: Well, I object to that.

THE WITNESS: I don't know what would have been a proper thing. I haven't the slightest idea.

MR. THOMAS: Is there any objection of mine to [1781] that question?

THE WITNESS: I can't tell what is in his mind or anybody else's mind.

By MR. FREEDMAN:

Q. What did he say his purpose was in coming to you to intercede with Mr. Maloney? A. He didn't say his purpose was for me to intercede with Mr. Maloney.

Q. Well, what did he say his purpose was? A. His purpose was asking me if I could contact Mr. Maloney and ask Mr. Maloney if he would see him.

Q. This was a telephone call? A. Yes.

Q. What did you tell him? A. I told him that I would try to contact Mr. Maloney and tell him—give him the message.

Q. What else was said in the course of that telephone conversation between you and Mr. McGrath? A. That is all.

Q. Didn't you ask him anything about the strike? A. No.

Q. Weren't you interested in that? A. No. I didn't even know whether there was a strike.

[1782] Q. What did you do pursuant to that call? A. I called Mr. Maloney.

Q. When? A. The same day.

Q. What did you say to him? Where was Mr. Maloney, incidentally, when you called him? A. I don't know. I couldn't tell you.

Q. Where were you at the time? A. Right here.

Q. In Washington? A. Right.

Q. And you don't remember where Mr. Maloney was? A. I don't know where he was. I did not know at the time and did not ask where he was.

Q. Well, you had to call him somewhere, didn't you? A. Yes. I picked up this phone and say to the girl at the switchboard, "Please get me President Maloney of the Operating Engineers," and she gets him.

Q. You didn't know where he was? A. No, I had no reason to.

Q. In talking to Mr. Maloney didn't it come out as to where he was at the time? A. I do not recall that it dd, no, and I wouldn't have any reason to ask him where he was.

[1783] Q. What was your conversation with Mr. Maloney? A. Told him that Mr. J. Howard McGrath was attorney for some employer or group of employers, I can't be sure which, and that they were having difficulty in Philadelphia, and that he wanted to get in touch with Mr. Maloney and talk to him, and with the idea in mind that there might be some way to settle the trouble, that Mr. Maloney might be of help?

Q. What else if anything was said between you and Mr. Maloney? A. Mr. Maloney replied that he would be in his office in Chicago within the next couple of days, and Mr. McGrath could call him and make arrangements to meet him.

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[1784] Q. Well, what did you say? A. I asked him if he would talk to Mr. McGrath, and he said he would.

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[1785] Q. Did you subsequently learn what happened in connection with their activities? That is, between Mr. Maloney and Mr. McGrath? A. Not as—not in that sense. I subsequently learned that there was a strike on here.

Q. From whom? A. From Mr. Maloney.

Q. When did he tell you about that? A. Oh, in August at a Council meeting in Atlantic City one morning I met him, and he got telling me about the [1786] strike, the troubles he had there in Philadelphia.

Q. And that was the next that you heard about this whole affair? A. That's right.

Q. What did Mr. Maloney tell you then? A. Well, he told me that they had a strike on there and that it had all the other building trades people tied up, that he was having great difficulty in getting it settled, and now that he was faced with court action, and the details beyond that I couldn't tell you.

Q. Told you he was faced with court action in August? A. Yes.

Q. Which— A. Yes.

Q. —meeting of the— What meeting was that? A. Executive Council of the American Federation of Labor.

Q. Executive Council. Did he tell you anything else? A. I don't recall anything. He told me about the trouble now. I couldn't tell you in minute detail what he told me.

Q. Well, tell me— A. But he told me in a general way that these people were on strike, that he couldn't get it settled, and that [1787] they were causing unemployment among all the other building trades, and the other trades were complaining.

Q. Did he tell you how many men were out of work? A. No.

Q. Did he tell you how come they were out of work? A. No.

Q. Did he tell you about any of the issues in the strike? A. No.

Q. Was any action taken at the Council meeting in regard to that strike? A. Yes.

Q. Will you state what was done? A. Yes. Mr. Maloney came in and explained his troubles.

Q. To whom? A. To the Council. And the Council passed some sort of a resolution approving of his efforts to reach a settlement, and he was given a copy of that resolution.

Q. Was there any effort made to hear the other side of the story? A. No.

Q. Will you answer that, sir? A. I answered it immediately when you asked it. Didn't you hear it?

[1788] Q. No, sir. A. I said no.

Q. Do you mean they adopted a resolution on an ex parte statement? A. Yes, sir.

Q. Did you participate in that? A. Participate in the adoption of the resolution?

Q. Or in the discussion. A. Yes, I participated in the discussion.

Q. And what was your position? A. My position was approving of Mr. Maloney's efforts to try to get the thing settled.

Q. Without knowing what the issues were? A. That's right.

Q. And without knowing what the strike was all about? A. Well, beyond what Mr. Maloney told us at the time. What that was, I don't remember now.

Q. Was a record made of that action? A. Yes.

Q. May I see it, please?

(Discussion off the record.)

MR. FREEDMAN: May I see it, please? First, I would like to have the minutes of this meeting contained on pages 41, 42 and 43 of this book, which is marked E. C. [1789] 1952, The Executive Council

of the American Federation of Labor, entitled "Minutes of Meetings for 1952"—is that correct, Mr. Woll? 41, 42 and 43, top of 43.

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[1792] Q. According to these minutes Mr. Maloney made a presentation to the committee and said he would like to have the Council approve the action of the International Union so that it could be presented to the judge.

* * * * * * *

[1793] THE WITNESS: That is not a question. That is a statement. Now, what is your question?

By MR. FREEDMAN:

Q. Would you mind listening to the question again and— A. I will listen to the statement again. You are going to ask a question. I will answer it.

* * * * * * *

Q. Is that a correct statement? A. In so far as I can recall, I do not—

Q. You may refresh your recollection from the minutes. Perhaps we had better take a little time out so you can—Have you read these minutes, Mr. Meany? A. Yes. In so far as I can recall personally—now, I [1794] am not recalling what is in the minutes—I don't remember Mr. Maloney saying anything about presenting it to the judge. I don't say he did not say that, but I don't know. I can't recall that.

Q. Do you remember him saying that it would be helpful in court? A. I don't recall him saying that. Now, he might have said it. Of course, I do recall that he spoke of the legal trouble, and my assumption would be that having presented a resolution as to which he asked the Council to pass, that he was seeking that to some way help him out in his legal troubles, but I don't recall specifically what he said.

[1795] Q. Do you remember him saying that if the resolution is approved by the Council he would like to give

it to the newspapers? A. I can't recall that, but I would assume that that is what he intended to do.

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Q. Now, in the course of that meeting after Mr. Maloney [1796] made his presentation, you said you knew something of the strike. A. Yes.

Q. And what did you tell the group of your knowledge about the strike? A. Well, I told them as near as I can recollect what Maloney had told me a couple of days before, that the strike was in the hands of some group in the local union that seemed determined to continue the strike and not accept any reasonable settlement. Now, that is as near as I can recall.

Q. Is that what you told the group? A. I assume I did, as far as I can recollect, yes.

Q. Did you tell them that the International Union was trying to effectuate a settlement? A. I am quite sure I must have told them that.

[1797] Q. Did you know that of your own knowledge? A. I knew that from what Mr. Maloney had told me.

Q. Had you talked to anyone else other than Mr. Maloney about this strike? A. No.

Q. No one else at all? A. No.

Q. Did you talk to any other attorneys about this strike? A. No.

Q. Did anyone from the General Building Contractors Association discuss this case with you? A. No.

Q. Did you tell the Council that the local union had got into the hands of a fellow who was associated with a lawyer who wanted to make trouble? A. Yes, that I think so, I am quite sure I told them that, because that is what Mr. Maloney told me.

Q. You didn't know that of your own knowledge, A. No, only that Mr. Maloney had told me there.

Q. Did you know how long the strike had been run-

ning at that time, A. I assume it had been running a couple of months. I couldn't tell you in detail.

[1798] Q. Who submitted the resolution to the Council? A. Mr. Maloney.

Q. He had it prepared? A. Yes, as far as I can recollect.

Q. How long before this Council meeting was it that you talked to Mr. McGrath on the telephone? A. I would say a couple of months. As near as I can recall, sometime in June, or perhaps late in May.

* * * * * * * *

[1799] Q. Did you talk to anyone about this case or about that strike or about the affairs of the Operating Engineers between that telephone conversation with Mr. McGrath and the meeting of the Executive Council on August 13, 1952? A. I talked to Mr. Maloney either on August—that was the 13th. I would say I talked to Mr. Maloney on either the 11th or 12th. It was a day or two before he came into the Council that I met him in the hotel, and he told me about his Philadelphia situation.

Q. And what did he tell you? A. He told me that he had a troublesome strike there, his local had gotten into the hands of some people who [1800] seemed determined to carry on the strike and were adverse to taking any kind of a reasonable settlement, and it was causing a great deal of trouble with the other trades, because the other trades were losing a lot of working time and were protesting against it.

Q. Did you know the circumstances under which the other trades were out? A. Not in detail, no. I, roughly, as far as I can recall, the other strikes were out because of a picket line thrown up by the Engineers.

Q. Did you know that the greatest number of men unemployed in the other trades were out because they wouldn't work on any project or any job where the Operating Engineers were actually working? A. I did not know anything about that.

Q. Would it have affected your judgment had you known that? A. Well, I don't know. Anything that went into this case, of course, we would have to give consideration to. Now, just whether that in itself would have affected my judgment or not, I can't tell you.

Q. Did you know that at that time there were agreements entered into with about 450 contractors in the area? A. I knew nothing about any of the agreements.

[1801] Q. Did you know that the particular strike was against only about 100 contractors around the Philadelphia area? A. No, I didn't.

Q. Did you know that the— A. I knew that the strike—Pardon me. I knew that the strike didn't affect all the contractors, because I was told that the most of the Engineers were working. Now, just whether they were working in Philadelphia or not, I don't know. I do recall that.

Q. You knew Engineers were working. And did you know also, or were you told that about 90 per cent of the Engineers were working and the other ten per cent were standing picket duty? A. Well, now, I wouldn't be able to say as to the percentage, but I knew that that was the situation. At least, I was told that that was the situation. A certain number were working, and the others were picketing and preventing the other building trades from working.

Q. And the jobs being picketed were only a small number of the jobs involved in the entire jurisdiction of the Union? A. No, I didn't get those details.

Q. Would it have affected your judgment had you known that? [1802] A. I don't know. I couldn't say.

Q. Do you remember any of the issues, or did Mr. Maloney tell you of any of the issues involved in this strike? A. No.

Q. If I were to tell you that one of the issues was wage rates, and that the Philadelphia group wanted parity in rates of wages with the group in New Jersey

doing the exact same kind of work, would you say that that is an unreasonable request?

* * * * * * * *

A. I wouldn't know what I would have said. Under the circumstances—

[1803] Q. Well, I am asking you now what you would say.

* * * * * * * *

A. Well, you are asking me now what I would say if there was a question of wage parity?

Q. That's right. A. I don't know, because it would depend on all the circumstances. I couldn't tell you what I would say now, because I would have to know a whole lot more than just the circumstances that you outline.

Q. The wage rates—I suggest to you that the wage rates across the river from Philadelphia were substantially higher from those in the Philadelphia area. I think it is a matter of common knowledge, also, and you will agree that the standard of living is certainly not higher in New Jersey than it is in Pennsylvania. A. I don't know anything about the standard of living.

Q. Would you say it would be an unreasonable request for the Pennsylvania group to ask for wage parity with [1804] the New Jersey group?

MR. WOLFE: That is objected to.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. Do you think it was important to find that out before you took a position condemning the men on strike?

MR. WOLFE: That is objected to.

THE COURT: Sustained.

Just what position do you take on Mr. Meany in this case?

MR. FREEDMAN: Sir, he is one of the persons who assisted in bringing the employers and in inducing Mr. Maloney—

THE COURT: Let us get completely technical. What is his position in this, as you are reading his deposition?

MR. FREEDMAN: Well, Mr. Meany, sir, while he is not a party, is a part of the—

THE COURT: Is he your witness or isn't he? That is what I mean by getting technical.

MR. FREEDMAN: Well, sir, I don't know [1805] that we would characterize him as my witness or the other side's witness. He is a witness.

THE COURT: All right, now, you are putting it in your case. You took the deposition. Is he your witness or isn't he? That is capable and susceptible of a yes or no answer.

MR. FREEDMAN: Well, perhaps technically he would be construed to be—he wouldn't be my witness, but it is my testimony.

MR. O'BRIEN: That is double talk. It is our position, sir, that he was Mr. Freedman's witness. He did not call him as an adverse witness.

MR. FREEDMAN: There is no question about the fact that he is an adverse witness.

MR. WOLFE: We certainly would not agree to that statement. There is no basis whatsoever for making any such contention or any such argument. Our position is as Mr. O'Brien has stated, that if Mr. Freedman called him he is bound by his testimony and that he is Mr. Freedman's witness.

THE COURT: That is why I raised the question at this point.

MR. WOLFE: That is our position, sir.

[1806] THE COURT: Are you going to take a position, Mr. Freedman? Is he or is he not your witness?

MR. FREEDMAN: Well, I have called him, sir,

and if that makes him my witness, I suppose he is my witness. I think that under the rules, that if he is not a party, I suppose if I call him, I offer it as my testimony.

THE COURT: Right. The point I am thinking about is that you are asking hypothetical questions in connection with a strike about which the man had actually no personal knowledge and acted on information given to him. That is a situation that I see here. You are questioning his philosophy of labor relations.

MR. FREEDMAN: No, Your Honor.

THE COURT: And tying it in to the local situation. Are you offering him as an expert?

MR. FREEDMAN: No, Your Honor. I am questioning his motive in doing what he did in that particular case.

THE COURT: Then we will go on on that basis, and you will be bound by whatever he says, whatever the evidence produced with him is, not necessarily by anything he says.

I have seen one or two things in here that [1807] are obviously in error, where I think the transcript wasn't correctly reported.

MR. FREEDMAN: Would Your Honor call those to my attention, sir. Perhaps we can correct them.

THE COURT: It is a matter of so little import that it didn't make enough impression on me to check it off.

MR. FREEDMAN: I was just going to say that we could correct it as we go along, if Your Honor will bring it to my attention.

By MR. FREEDMAN:

Q. Yes, sir. A. Well, I couldn't have thought it was important, because I did not ask such a question. . . .

THE COURT: I think you are down to the—

MR. FREEDMAN: That question wasn't objected to, Your Honor.

MR. WOLFE: It was objected to, but the answer was given nevertheless, and I object to it now, and Your Honor sustained the objection, so I take it the answer should not be read.

THE COURT: I have eliminated that. Your [1808] last question there leads into it:

"Q. Do you think it was important to find that out before you took a position condemning the men on strike?"

That was your statement, not his.

MR. FREEDMAN: Yes, Your Honor.

THE COURT: And it was objected to and I sustained the objection.

MR. FREEDMAN: Your Honor, may I say a word about that, sir? Here we say we have an adverse witness. We are trying to get to the facts, and we are trying to find out what his motive was in doing what he did; and it seems to me, sir, that it is highly important for me to find out whether he acted under circumstances where he knew all the facts or where he didn't know the facts. If he acted and did a certain thing without knowing what the circumstances and the issues were, it seems to me that we can impute one motive to him.

THE COURT: Mr. Freedman, if you are going to stand there and ask me to say that the Secretary-Treasurer of the American Federation of Labor had an obligation, before he took any stand, to come into Philadelphia and try a lawsuit, I am not even going to accept that, because that is what you are leading up to here in these questions, and I [1809] would not put that burden on anyone.

I act in my office promptly, and so do you, on information given to me by the people who are associated with me in the work of the office.

MR. FREEDMAN: Well, sir, knowing Your Honor as I do, I am sure that Your Honor has always and always will hear both sides of the story before you take a position.

THE COURT: Not on a matter that involves an act in the office that is for the betterment of the office. In this case Meany's main object would be to maintain good labor conditions for the people of his Association and have a forward looking view that perhaps a local didn't have and never could have, because he would be nationwide.

MR. FREEDMAN: Well, may I say, sir, that as the titular head of the organization, he knew or certainly should have known that a strike is an extremely important factor and a necessary factor to any labor organization which is attempting to obtain—

THE COURT: It is their life blood. It is the life blood of the labor organization.

MR. FREEDMAN: That's right, sir, and before he took any measures to effectuate the termination of that [1810] strike, it seems to me, sir, that he should do everything he can to find out what the strike is about first, and, secondly, not to take any measures to damage the interest of the membership themselves, which should come first, before Mr. Maloney or before the employers' interest.

THE COURT: Have you ever considered the proposition that it may be that in good faith they did just that and that they were thwarted from accomplishing their purpose?

MR. FREEDMAN: Well, that is exactly what I am trying to find out here, sir. That is why I am asking him whether he did these things. That is why I was probing to find out whether he acted in good faith or from some other motive.

THE COURT: It is just a question that we have

to try lawsuits according to the rules of evidence that gives me some pause right now. I think I am getting a pretty clear picture of this whole broad situation, Mr. Freedman, and it is not a very savory one, may I say that.

MR. FREEDMAN: I absolutely agree, sir. It is not very savory. I think it is most unsavory, sir.

THE COURT: The next question you may ask is the third line from the bottom on page 27.

MR. FREEDMAN: I assume, Your Honor, I need [1811] not take any exception.

THE COURT: No, no.

Q. Did you know, or were you told that another issue in the strike was a safety code? A. No, I have no recollection of that.

MR. WOLFE: That is objected to for the same reason.

THE COURT: I am going to let it stand, because the same question is asked in the next question, and I will rule on that.

By MR. FREEDMAN:

Q. I will ask you, then, whether you think that it was unreasonable for the Philadelphia group that was on strike to ask for the inclusion of a safety code in the agreement?

MR. WOLFE: That is objected to.

THE COURT: Overruled. Let us get on.

THE WITNESS: It would depend on the circumstances.

[1812] By MR. FREEDMAN:

Q. On what circumstances? A. It would depend on all the circumstances.

Q. You may answer now, Mr. Meany. A. What is the question?

MR. FREEDMAN: Will you please repeat it.

(The question was repeated by the reporter as follows:

"Q. I will ask you, then, whether you think that it was unreasonable for the Philadelphia group that was on strike to ask for the inclusion of a safety code in the agreement?")

MR. WOLFE: That is objected to.

THE COURT: I will sustain the objection. Let us get to the next page. That says the same thing.

MR. FREEDMAN: Very well, sir. The top of page 29.

By MR. FREEDMAN:

Q. Well, if you knew that the provisions of the safety code had been approved by the National Safety Council— [1813] incidentally, do you know what the National Safety Council is? A. In a general way, yes.

Q. You know that they are composed of insurance companies, generally? A. No, I didn't know that.

Q. And that the National Safety Council also follows the recommendations of governmental agencies; did you know that? A. No.

Q. Well, if you knew that the safety code had been approved by the National Safety Council, would you have said that it was an unreasonable request—

MR. WOLFE: That is objected to.

THE COURT: Continue, Mr. Freedman. The objection is overruled.

By MR. FREEDMAN:

Q. —or demand by a local union? A. I would not be able to judge whether any demand was unreasonable or reasonable unless I knew all the circumstances in connection with the dispute.

Q. Well, what else would you have to know in order to [1814] insist on a safety code in a contract? A. I would have to know all the circumstances, whatever they were.

Q. If you knew that men were getting killed through defective appliances and unsafe conditions, would you consider that there was a need for some safety code?

MR. WOLFE: That is objected to.

THE COURT: Sustained.

MR. FREEDMAN: There is no objection on the record, sir.

MR. WOLFE: Objections are reserved to trial.

MR. FREEDMAN: Not in this. You have got to make your objections at the time of this deposition, sir, according to the rules. If he doesn't make them, he waives them, so far as form is concerned.

MR. WOLFE: Of course, that is not correct.

THE COURT: This is a substantive objection.

MR. FREEDMAN: I understood Mr. Wolfe made it on the basis of form.

MR. WOLFE: I made no such statement, if Your Honor please. It is objected to as wholly irrelevant and inadmissible and asking for conclusions.

THE COURT: The question is improper, and I [1815] have sustained objection to it.

Q. Well, then, why would you say that you wouldn't want to take a position as to whether it was unreasonable when the local here was asking for a safety code?

MR. WOLFE: That is also objected to for the same reason.

THE COURT: I will sustain the objection.

Q. Would you say that the demand for a pension was unreasonable?

* * * * * * * *

A. I wouldn't know whether to say the demand for a pension was unreasonable unless I knew all the facts and circumstances in connection with the dispute.

By MR. FREEDMAN:

Q. What has to exist before you—what circumstances

and facts have to exist before you can determine whether [1816] or not such a demand is reasonable?

* * * * * * * *

A. I couldn't set up a hypothetical case. I would have to know all the facts in each particular case.

By MR. FREEDMAN:

Q. I take it, then, from what you say, that nothing that I could say about what the demands are would alter your opinion at this time as to whether or not they were unreasonable or reasonable?

* * * * * * * *

A. I don't know. I don't know what you could say or what you couldn't say.

Q. Would you say that the demand for retroactive pay was unreasonable?

* * * * * * * *

[1817] A. I couldn't say whether it was unreasonable or unreasonable without knowing all the facts and circumstances.

By MR. FREEDMAN:

Q. Why didn't you give that same answer to Mr. Maloney when he came to you and told you that he thought that the local people were trouble makers?

MR. WOLFE: That is objected to.

THE COURT: Sustained.

By MR. FREEDMAN:

Q. Why didn't you attempt to find out the facts and circumstances then?

* * * * * * * *

A. Well, we assumed that Mr. Maloney was giving us the facts, and we had no reason to [1818] know otherwise.

By MR. FREEDMAN:

Q. Well, all you had to do was just pick up the telephone and call one of the local people in; don't you think in all fairness that should have been done?

MR. WOLFE: That is objected to.

THE COURT: Sustained.

You can't have anything up to page 34, so you might as well turn over there. I think the next one that will not be within the category of my ruling would start at page 34.

"Q. Well, you say that Mr. Maloney talked to you a day or two before it was presented to the Council."

MR. FREEDMAN: Is Your Honor excluding the questions—

THE COURT: I am excluding them for the very reason that I sustained the objection to the first. It is all part of that situation where, by implication, on your witness, you are trying to put some duties on him that I don't consider that he has.

So we are down to page 34, the seventh line from the bottom.

[1819] Q. Well, you say that Mr. Maloney talked to you a day or two before it was presented to the Council. A. Yes.

Q. So that you had an opportunity to attempt to communicate with the local people to find out what if any answer they had. A. Well, I had no reason to want to communicate with the local people. I had no interest in the matter beyond what Mr. Maloney told me, and I had no reason to believe that he was not telling me the truth.

Q. Did he tell you that the matter had been presented to the membership themselves, and they had rejected Mr. Maloney's— A. No, he didn't.

* * * * * * *

[1820] Q. He did not tell you— A. Not as far as I know, he did not. I don't recall that.

Q. If I were to tell you that Mr. Maloney's recommendations or demands, such as they were, were presented to a meeting of the membership, general meeting of the membership, for their decision and they rejected Mr.

Maloney's recommendations or demands—recommendations as to the contract, and demand that they return to work; if you knew that, would it have influenced your judgment?

MR. WOLFE: That is objected to.

THE COURT: That is straight cross- examination and is properly objectionable, but I am going to permit the question.

A. I don't know.

* * * * * * * * *

[1820a] THE WITNESS: I don't know. I would have to know the facts and circumstances. I couldn't tell you whether or not it would influence my judgment.

[1821] By MR. FREEDMAN:

Q. Well, I think it is proper that you should know all the facts and circumstances, but don't you think you should have known all the facts and circumstances at the time of the meeting before the resolution was acted on?

MR. WOLFE: That also is objected to.

THE COURT: I will overrule the objection.

THE WITNESS: I don't—I couldn't answer that, not knowing all the—what you are getting at. I assumed that the description of—whatever description Mr. Maloney gave of the trouble was the fact. I had no reason to believe he was not telling the truth.

By MR. FREEDMAN:

Q. Mr. Meany, have you produced all of the papers or documents or memoranda that are in your custody or in custody of the American Federation of Labor regarding this strike or the affairs of Local 542? A. As far as I know, that is the whole record right there.

Q. Just these minutes? A. Yes, I know nothing beyond that.

Q. Just this set of minutes which is going to be copied into the record? [1822] A. That's right.

* * * * * * * * *

"Meeting called to order at 2:10 P.M., President Green in the chair. Present: Green, Woll, Harrison, Tobin, Bates, Birthright, Doherty, Dubinsky, [1823] MacGowan, Winter, McFetridge, Petrillo, Meany. Absent: Hutcheson, Tracy.

"President William E. Maloney of the International Union of Operating Engineers, accompanied by his assistant Mr. Wharton, came to meet with the Council.

"President Maloney reported that a strike has been in progress in the Philadelphia area for 14 weeks over certain terms of agreement.

"President Maloney stated that a week ago last Sunday he brought into his office in Chicago the contractor and Mr. Carter representing the Operating Engineers who had been sent into Philadelphia from New Jersey to try to settle the differences between the contractors and the local union. He stated that after a 4-day conference they would get their differences partly settled at night but the Operating Engineers' Union representatives would call some lawyer in Philadelphia and the next morning he would state that he had changed his mind. Finally they had everything settled except 4 little points. President Maloney stated he called them in to meet in Philadelphia and got these 4 points adjusted with the contractor and the union representative agreed to settle on that basis.

"President Maloney stated that it was not settled, however, and a week later he called this repre- [1824] sentative in and informed him he would have to settle the differences on the basis agreed to, and he wanted a telegram. President Maloney said he sent the telegram and a letter so that he could read them to the membership. Then President Maloney stated he issued an order to the union representative last Monday and gave him 24 hours to settle, but when the 24 hours were up yesterday he made a petition in the United States Court for an injunction.

"President Maloney stated that in the meantime on strike, all of the men were working but there were 6500 building tradesmen in the street, and they kept calling President Maloney to settle the strike so that they could go back.

"President Maloney stated that yesterday this union representative applied for an order for an injunction in Court and accused President Maloney of agreeing with the contractors in order to get the men back to work.

"President Maloney stated that before he goes into the Federal Court, Monday morning, he would like to have this Council approve the action of the International Union in trying to settle the strike so that the Judge will know the facts. President Maloney asked the Council to approve the following resolution:

[1825] 'The Executive Council of the A. F. of L. having been advised in circumstances and having reviewed the history of the strike of the Engineers in Philadelphia and the involvements of the Building Trades therein, hereby commends the efforts of William E. Maloney, as General President of the International Union of Operating Engineers to effectuate a settlement of the strike."

"President Maloney stated that this would be helpful in Court and if it is approved by the Council he would like to give it to the newspapers. He stated that 14 weeks is a long time for a strike on a construction job, especially as these men cannot work when the weather becomes bad.

"Secretary-Treasurer Meany stated that he knows something of the strike. He said that the International Union is trying to effectuate a settlement, and an injunction has been sought to stop the International Union from interfering with the Local. Secretary-Treasurer Meany stated that this Local Union has

gotten into the hands of some fellow who is associated with a lawyer who seems to want to make trouble. Mr. Meany stated that he is in agreement [1826] that the Council would be justified in commending the International Officers of the Operating Engineers in their efforts to settle the strike.

"The hearing was concluded.

"It was regularly moved and seconded that the resolution be adopted.

"Carried."

By MR. FREEDMAN:

Q. Mr. Meany, it would appear from these minutes, that is, from the minutes of the A. F. of L. Executive Council in Atlantic City on August 13, that when Mr. Maloney made his presentation, the lawsuit had already been started in Philadelphia. That is correct, isn't it?

THE COURT: Now, just a minute. Do you consider that a fair question in your own right?

MR. FREEDMAN: Yes, Your Honor. As a matter of fact—

THE COURT: Do you consider that a fair question?

MR. FREEDMAN: From the minutes, yes, sir. What is there about it, sir, that is objectionable?

THE COURT: You are sitting as trial counsel in this case and knowing that what he said there [1827] was true in this very case.

MR. FREEDMAN: I don't follow Your Honor.

THE COURT: That an injunction has been sought to stop the International Union from interfering with the Local. That is the very thing you are asking in this case.

We will take a ten-minute recess.

(At this point a ten-minute recess was taken.)

MR. FREEDMAN: Shall I repeat the last question, sir?

THE COURT: You may if you want to.

MR. FREEDMAN: So we can get the trend of it.

By MR. FREEDMAN:

Q. Mr. Meany, it would appear from these minutes, that is, from the minutes of the A. F. of L. Executive Council in Atlantic City on August 13, that when Mr. Maloney made his presentation, the lawsuit had already been started in Philadelphia. That is correct, isn't it?

MR. WOLFE: That was objected to.

THE COURT: I am going to overrule the objection.

[1828] THE WITNESS: I don't know whether it is correct or not. It would appear from the minutes that someone had sought an injunction.

By MR. FREEDMAN:

Q. Right. A. Would that constitute starting a lawsuit? I am not up in this legal terminology.

Q. Well, will you please consult the minutes, and you will see from the minutes that they show very clearly that the lawsuit had already been started. A petition for an injunction had already been filed. A. I would say that a petition for an injunction had been filed, according to the minutes.

Q. Incidentally, let me ask you: Would you say that these minutes correctly reflect what occurred in the meeting of the Executive Council on August 13? A. As near as I can recall. I don't know.

Q. You would not disagree with anything contained in the minutes? A. No.

Q. Would you say those minutes were accurate, are an accurate reflection of what occurred? A. As near as I can recollect. I don't know. I don't [1829] write the minutes, so I couldn't tell you.

Q. Now, at that time did you have before you, or did Mr. Maloney or anyone else submit to you or the Council

a copy of the complaint which had been filed in court? A. No.

Q. Did you ask for one? A. No.

Q. Didn't you consider that the complaint might give you the basis for the other side's position?

MR. WOLFE: That is objected to, if Your Honor please.

THE COURT: Overruled.

THE WITNESS: It never entered my mind that there would be anything filed in the way of a complaint. I don't know anything about court procedure.

* * * * * * *

[1840] Q. Did you ever go to visit Joe Fay?

MR. WOLFE: That is also objected to.

THE COURT: Sustained.

MR. FREEDMAN: Well, my next question is, "When?"

MR. WOLFE: Which is also objected to.

THE COURT: Sustained.

MR. FREEDMAN: My next question here is, "You say the winter of 1951?"

THE COURT: That line of testimony will not be allowed to go in this record.

MR. FREEDMAN: Sir, there are no objections as to form. Is Your Honor excluding on the basis of sub- [1841] stance?

THE COURT: I am excluding it on the basis of relevancy completely. It has no bearing on this trial, and I did not know what was in this because I told you this morning I never read it. That is why I wanted to know at the outset whose witness this is.

MR. FREEDMAN: So that I do not violate Your Honor's ruling, would Your Honor indicate just what questions Your Honor is excluding?

THE COURT: Well, I have excluded everything over to page 56 already.

MR. FREEDMAN: That goes from 53 to 56, sir. What part of 56 may I ask, if Your Honor please?

THE COURT: I am up to 59.

MR. FREEDMAN: Shall I withhold further questioning until Your Honor finishes examining the deposition?

THE COURT: Yes.

The top of page 63, first question. You have an exception to every question and answer in the interim that I have excluded.

MR. FREEDMAN: From 53 to 63?

THE COURT: I am excluding every bit of that testimony.

[1842] Q. You knew that Fay, was a general vice-president of the International Union of Operating Engineers, did you not? A. I did.

MR. WOLFE: I object to that also, Your Honor.

THE COURT: Overruled.

Q. Is that how you came to know him, through his association with that union? A. I came to know him through his work in New York where I was working at the time. I was working for the New York State Federation of Labor, and he was working for his International Union.

Q. Did you enjoy an intimate and friendly relationship with him? A. Yes.

Q. Did you know that Joe Fay was the supervisor of Local 542 up until the time he went to prison?

MR. WOLFE: That is objected to, if Your Honor please, as irrelevant and immaterial to the issues in this case.

THE COURT: I will overrule the objection.

[1843] A. No.

Q. What was the period that you worked with him in New York, did you say? A. The period that I was

acquainted with him in New York was from 1934 to 1940, when I left New York and came here to Washington.

Q. Well, didn't you know that during that period Fay was the supervisor for this local? A. I certainly did not.

Q. What did you discuss with Fay when you went to visit him in jail?

MR. WOLFE: That is objected to.

THE COURT: Sustained.

MR. WOLFE: I ask that the question be stricken out as the question makes a statement with respect to something which has already been ruled out.

THE COURT: No, it will just be a guide to the point and the reason for the ruling.

Go ahead.

MR. FREEDMAN: My next question is, "And what steps, if any—"

THE COURT: Wait a minute. Top of page 65.

MR. FREEDMAN: Your Honor is excluding from [1844] the last question on page 64 to the top of 65, sir?

THE COURT: Yes.

* * * * * * * *

[1847] Q. Mr. Meany, when you talked to Mr. Maloney on the telephone after McGrath called you, did he suggest that he would see McGrath and Halloran in Washington in a few days, and you said no, you wanted him to see him right away? A. He did not. Did not make any such suggestion.

[1848] Q. You say you did not arrange for Mr. McGrath and Mr. Halloran to go meet— A. I told you—

Q. Will you please let me finish the question. —to meet Mr. Maloney in Chicago, and not to wait a few days to arrange the meeting in Washington? A. What the hell are you talking about? Is that a question or a statement? Ask the question: What is the question?

MR. FREEDMAN: Will you repeat it, please, Mr. Reporter.

(The question was repeated by the reporter as follows:

"Q. Mr. Meany, when you talked to Mr. Maloney on the telephone after McGrath called you, did he suggest that he would see McGrath and Halloran in Washington in a few days, and you said no, you wanted him to see 'im right away?

"A. He did not. Did not make any such suggestion.")

THE WITNESS: Well, now, maybe there is no use asking you. Maybe the reporter will clarify the question for me. What is the question?

|1849| By MR. FREEDMAN:

Q. Well, I will rephrase it for you if it is not clear to you. A. No, it isn't very clear. What is this about not waiting a few days? I don't know anything about that. I told you that conversation.

Q. When you called Mr. Maloney on the telephone— A. Yes.

Q. —did he say to you that he would be in Washington in a few days? A. No, he did not.

Q. Did you say to him you wanted McGrath—you wanted him to meet McGrath and Mr. Halloran— A. I did not.

Q. —in Chicago— A. I did not.

Q. —before a Washington meeting? A. I didn't say any such thing to him.

Q. So that if Mr. Maloney said that, it is not true? A. If Mr. Maloney said that I asked him to meet Mr. McGrath and Mr. Halloran in any place, that is not true, because until today I never heard the name of Halloran in connection with this case. I don't know at this moment who Mr. Halloran is.

Who is Halloran?

[1850] Q. We will have to— A. What has he got to do with it?

Q. Well, would you say, Mr. Meaney, that Mr. Maloney wanted to see Mr. McGrath in Washington in a few days, and you say no, you wanted Mr. Maloney to see Mr. McGrath immediately in Chicago. A. I didn't say either one of those things, Mr. Freedman. I said that I called Mr. Maloney and told him Mr. McGrath was anxious to see him about this Philadelphia matter, and asked him when he would be available to see Mr. McGrath.

And he said, "I will be in my office in Chicago," at such and such a time, in a few days or so, "and if Mr. McGrath wants to come out there and see me, I will see him."

I passed that information on to McGrath immediately after I got through talking to Mr. Maloney, and that is it.

Q. That was the full extent of your conversation? A. That is the full extent of the conversation. There wasn't any more.

* * * * * * * *

[1864] Q. Mr. Meaney, do you regard it as policy of the American Federation of Labor to interfere in a strike where it has gone for a couple of months, three or four months? A. The policies in regard to that are not the American Federation of Labor's business. That is the business of the International Union. We have no policies in regard to that.

[1865] Q. Well, in laying down policy for the International Unions— A. We never lay a policy down in that question.

Q. Don't you ever discuss the policy? A. No, that is something for them to determine. We don't know their business. They work in diverse industries, and we couldn't possibly lay down policies for them.

Q. Well, you as the head of the American Federation of Labor, would you say that because a strike had gone for three or four months, that that in itself should be sufficient for the International Union to step in? A. I wouldn't—

I don't say anything. I don't know. That is one of the things that I would have to know all the circumstances. Whether the International should step in or not, I couldn't say. I don't know.

Q. Well, do you know all the circumstances in this case? A. No, I do not.

Q. Then why did you commend Mr. Maloney for interfering in the local, when did you know the circumstances? A. I commended Mr. Maloney for trying to effectuate a settlement of a strike.

Q. Even when you did not know the circumstances? A. I knew the circumstances as he presented them.

[1866] Q. And yet you admit that you do not know the circumstances of this controversy. A. Beyond what Mr. Maloney told us.

Q. Well, are you able to state just what Mr. Maloney did tell you? A. I told you before roughly what he told us, that they had a strike, and that he had a—someone leading the strike that was determined not to settle it, in his opinion, and that it was causing a great deal of loss of wages to the building trades men in that area, and that he was trying to settle it.

Q. But you did not know the issues in the strike, did you? A. No.

Q. And you didn't try to find out? A. No.

* * * * * * * *

[1868] Q. Mr. Meaney, did you know Lieutenant-Governor Wicks? A. Yes, sir.

MR. WOLFE: That is objected to, if Your Honor please.

[1869] Q. Did you ever introduce him to Fay?

MR. WOLFE: That is objected to.

THE COURT: Sustained.

Q. Did you ever make this statement—I want you to think about this, now. Did you ever make this statement to

Wicks: "Arthur, I want you to meet Joe Fay. He can do you a lot of good."

MR. WOLFE: That is objected to, if Your Honor please.

THE COURT: Sustained, and the rest of the page, the objection to it is sustained, because it all refers to the same subject matter.

Q. How often do you see Mr. Maloney? A. Well, maybe four times a year, three or four times a year.

Q. Have you talked to him about this case aside of the two occasions when you talked to him on the telephone and at the Executive Council meeting? During that period to the present time. A. About this case?

Q. Yes. [1870] A. No. He called me up about two weeks ago and he said, "I understand you are going to give a deposition on this case in Philadelphia."

And I said, "I don't know anything about it."

He says, "Well," he said, "somebody told me you were going to give a deposition."

I say, "Well, Bill, I don't know. I haven't heard anything about it."

So a couple hours later I was given the subpoena, and then I knew I was going to give a deposition. But that was the same day. Now, that would be about three weeks ago, but that is all he said.

* * * * * * * * *

[1881] WILLIAM E. MALONEY (Pre-trial deposition).

Q. Mr. Maloney, this letter is from Mr. John J. McDonald. Will you tell us who he is? A. He is the Third Vice-President of the International Union of Operating Engineers.

Q. What position did he hold in the Philadelphia area within the jurisdiction of Local 542 A. Third Vice-President of the International Union of Operating Engineers.

Q. Did he act in any capacity other than his capacity as Third General Vice-President? A. He never was assigned to any other capacity.

Q. Was he acting as an observer in the area? A. Well, I would say "yes".

Q. Did he have any assignment in that area? A. I just answered that, that he didn't have any.

Q. Please answer the question, sir. [1882] A. I said he was not assigned to any other office outside of Third Vice-President of the International Union.

Q. By whom was he assigned? A. By me.

Q. Do all General Vice-Presidents get assigned? A. When I send them to a District, yes.

Q. If you don't choose to send them to a District, that means they don't have an assignment? A. That is right.

Q. If they do have an assignment, do they get paid? A. They get paid, yes.

Q. Is there any salary which attaches to a Third Vice-President or any General Vice-President? A. Yes.

Q. As such? A. Yes.

Q. What is that, please A. $15,000. $15,000 a year.

* * * * * * * * *

[1883] Q. He gets $15,000 a year? A. Yes.

Q. Does he get any additional compensation for being assigned to the area where we was acting as observer, that is being assigned by you? A. Yes.

Q. What is that additional compensation? A. He gets expenses of $25 a day.

Q. No other salary? A. I would have to look the record up on that, Mr. Freedman.

* * * * * * * * *

[1884] Q. Did Mr. McDonald make regular reports in connection with his assignment in the area? A. No.

Q. Was he required to? A. No.

Q. What specifically were his duties? A. He was sent in there for the direct purpose, in fact he was in there, he was sent in there originally to investigate the situation

in Philadelphia, before Underwood was in there.

Q. When did he first go in? A. I would have to look for that. I would have to look the record up to find that out for you.

Q. Can you give us an approximate idea? A. Well, sometimes about, I am guessing now, 1947 or 1948

Q. We won't hold you to the exact year. I will ask you also to get that exact information and furnish it to us, please. A. I will try to get it for you.

Q. Thank you.

Now, will you give us the specific duties which are assigned to a man when he goes into a region which was [1885] assigned to Mr. McDonald, specifically in that region? A. He was originally sent down there to investigate the conditions in 542, when Mr. Jasper White was in there. That was his original assignment.

Q. You continued him in the same area? A. He stayed in the same area, yes.

Q. You haven't given me his duties yet. I want to know what he was supposed to do when he was first assigned and thereafter during the period of his tenure in office there. A. I thought I explained that, but I will. He was sent down there for to expressly find out the conditions in 542 when Mr. Jasper White was in charge of the Local Union, and what was causing complaints to come into this office.

Q. In 1948 or 1949, 1948, an election was held and Mr. Jasper White was ousted, wasn't he? The new President, the Local elected a new President, a new regime was set up, is that correct? A. I don't believe that Jasper White ran for office.

Q. In any event, whether he did or whether he didn't, the Local elected new officers? A. That is right.

Supervision was terminated at that time? [1886] A. That is right.

Q. And that was under a Court decree, I believe? A. It was not.

Q. Under a stipulation filed in Court. A. If I had

known the stipulation was filed in Court, I wouldn't have agreed to it.

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[1887] Q. You mean that Mr. McDonald remained in the area of his own volition? A. That is right.

Q. Until what date? A. Well, I will have to look that up for you, too.

Q. Can you give the approximate time? A. I believe he left there in 1952, or sometime, I don't know just exactly what.

Q. Why did he leave? A. I assigned him to another District.

Q. Where? A. To San Francisco.

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[1889] Q. Did Mr. McDonald have any other duties other than those relating to 542? A. Once in a while we would give him a case to look after, stationary Local Unions down there, surrounding territory.

Q. That was occasionally? A. Yes.

Q. Anything other than that he had to occupy himself with? Was there- A. No.

* * * * * * * *

[1905] By MR. FREEDMAN:

Q. Mr. Maloney, did you have any knowledge at all of the 1949 contract that was entered into after the arbitration? A. None at all.

Q. You recall the period during which Local 542 was under supervision until it was terminated by court order in 1948? A. I remember—I know a little about it. When I got to be president, of course, they were under supervision. I just inherited that.

Q. When was that, Mr. Maloney? A. And as far as —in 1940, September, 1940.

Q. September, 1940, you became president? A. Yes. Yes.

Q. And it was under supervision then? A. Yes.

Q. And you kept it under supervision until when? A. Well, when I agreed to release it.

[1906] Q. You mean after the court action was started in 1947? A. I agreed to release it and didn't know anything about the court action.

Q. You mean that you didn't know that an action was pending in the hourt here? A. No. I knew that there was a complaint made by several members, but I didn't know there was a court action and haven't read the decision, if there is one in it, yet.

Q. Well, are you aware of the conditions which existed during the period of the supervision while you were president? A. Just what do you mean by that question?

Q. Well, let me withdraw it. You actually withdrew supervision, or, at least, supervision was withdrawn in 1948, is that correct? A. If that is the date, yes.

Q. Now, up until that time did you make any investigation to find out what the conditions were, to determine whether the Union was being properly managed?

THE WITNESS: Read the question, will you, please?

THE WITNESS: I would say that—I am perfectly willing to answer the question—that there was [1907] certain groups of members came to my office from 542 and complained about certain conditions in the Local Union. I can't remember only one now that —I can remember two a fellow name of Dawson and a fellow name of Carter—come to my office and we told them to go back and see what they could do to get control of the local, that I was going to put it under supervision, and especially I was going to put Mr. Jasper White out of office.

Now, there was a group of about four or five of them. I can't remember the other names. I don't know whether it is in my file or not.

Q. And you say that you did it voluntarily without any knowledge that a court action was pending? A. That's right, as far as my knowledge is concerned. That is my belief at the present time. To the best of my knowl-

edge and belief at the present time, that would be my answer to that.

Q. Now, let us get to 1949. Immediately after the supervision of the local was terminated, an arbitration was conducted for the purpose of working out a contract between the employers and Local 542, is that correct? A. I can't answer that question for you, I don't know.

Q. Don't you have any recollection at all about that arbitration? [1908] A. No, I haven't.

Q. How about the contract that was finally worked out as of May 1, 1949? A. What do you mean by that?

Q. Which became, the contract which became effective in 1949. A. I never read the contract.

Q. Did you ever hear about it? A. I understood they had a contract. All local unions have a contract at some time. It probably was in our office, it probably went through the regular procedure and was probably approved by the General Office. I don't know that.

Q. Who approves them? A. Why, that is automatic, if they come in and they are satisfied with the Local Union, the contract satisfies the Local Union, we look them over, and if there is nothing in there that interferes—people in the office. Mr. Wharton, Mr. Hill, or maybe the girl in the office, looks them over, reads them, and if there is nothing unusual in the contract, approves them.

Q. Don't you look at them yourself? A. No, no, I wouldn't have a possible chance. I have to have assistants to do that. Then if there is anything in [1909] the contract they think is in the contract is illegal or irregular or anything like that, they bring it to my attention. Then I look at it.

Q. Do you remember that while the local was under supervision, or immediately prior to the time supervision was terminated in 1948— A. See—could I just say something here before you ask that question?

Q. Please just answer questions, Mr. Maloney. A. Well, I want to make a statement in here.

Q. Is it in answer to any question? A. Yes.

Q. Well, go ahead. A. You asked me if I knew anything about a lawsuit regarding supervision. I do now remember that I did get a letter from McDonald claiming that he had some attorney here by the name of—he was the attorney for the moving picture operators, I believe, in this town. And he did write and tell me that they had an attorney, and that he was consulting with a fellow name of Kelly, I believe the name was—just come back to me now.

Q. Is that all you wanted to say, Mr. Maloney? A. Yes. I didn't want you to—you know, I made a statement I didn't know anything about it. That flashed [1910] through my mind.

Q. I see. Now, do you recall that in 1948 while the Union was still under supervision that you submitted a series of demands for a new contract at that time, immediately before supervision was terminated? A. I didn't. I don't know anything about it.

Q. You deny that your office— A. I wouldn't deny my office did, because I wouldn't know.

Q. You don't know anything about those demands? A. No, I don't know anything about them.

Q. When I say demands, I mean demands for a new contract covering the area within the jurisdiction of Local 542. A. No, I don't know anything about it.

Q. You don't know anything about it? A. Not to my knowledge. It might have come out of the office. I don't know nothing about it.

Q. Well, will you tell me who in particular handled and has handled all of the affairs relating to Local 542 in your office? A. It depends on when the proposition come in—when the question come in. We have two people there, Mr. Hill and Mr. Wharton. Either one of them might have handled it.

[1911] Q. Either one of those two? A. Either one of those two might have handled it. Or at that time, I believe in 1948, maybe the secretary-treasurer probably handled it.

Q. Who is that? A. Mr. Fitzgerald. He is probably the one that handled it.

Wait until I make a correction there, too, for you. I don't believe that Mr. Wharton was in my office at that time. I think he was in Pittsburgh. But we had a man name of Herbert Woods that handled a whole lot of that.

Q. What was his position? A. He was a statistician and looked over contracts and stuff like that.

Q. Did he have any official position in the Union? A. Just one of my employees.

Q. Mr. Maloney, don't you have any recollection that at that time—that is, in 1948 your office made demands for a contract which would put the Pennsylvania area on parity with New Jersey? A. Never, to my knowledge. That could have been a possibility out of the office, I don't know. I am not denying it didn't come out of the office, but I didn't.

[1912] Q. Well, weren't you consulted in matters of this type, where policy problems were involved? A. Sometimes, but that particular case, I wasn't, or to my knowledge I wasn't.

Q. During the period you had Local 542 under supervision until 1948, were you aware of what contracts existed in the area with the employers? A. Not a bit. I didn't know nothing about any contract.

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[1915] Q. When did you release McDonald from this area? A. I never— when McDonald—after the local was under supervision, McDonald could have went any place he wanted to. I wasn't very much interested in McDonald because I didn't believe a whole lot of his reports. I had no confidence in him, and I didn't care where he went.

Q. Did you send him somewhere? A. I did finally, told him to come to me, and he said, "I am no more good in Philadelphia," and he said, "Where will I go?"

Well, I said, "You can go to the West Coast [1916] if you want to, or you can go to New York if you want to, or you can go to the South if you want to." So he picked the West Coast.

Q. When did you first find out you had no more confidence in his reports? A. Well, when I found out that the reports that he gave me, when different people would call up, when Carter would call up—I don't know where he got the information—and gave me this information, and Mr. Fitzgerald gave me this information that somebody called him, why, I come to the conclusion that McDonald wasn't very reliable.

Q. When did these reports come to you? A. I don't know. Sometime during this period. I can't remember.

Q. During what period? A. Between 1948 and 1952.

Q. Between 1948 and 1952? A. Yes.

Q. That is four years. And when was it that you finally decided you had no confidence in his reports? A. Shortly after, it wasn't only a short time that he was in here, that the local was under local autonomy before he began to give me reports. It looked to me like he was trying to give me reports to make himself a job.

[1917] Q. Why did you wait so long before you did anything about it? A. I didn't wait so long before I did anything about it finally. He decided where he wanted to go. He is a vice-president. I didn't want to get into a fight with him.

Q. Didn't you assign him to the West Coast? A. I didn't assign him. He said he didn't want to stay in Philadelphia, so he picked the West Coast.

Q. Does he have a right to go wherever he wants? A. No, he hasn't, but I let him go. He was very unreliable as far as I was concerned as an officer, so I didn't care where he went.

Q. What I am trying to find out is when you finally decided he was very unreliable, what day? A. Shortly after the local got under local autonomy here.

Q. In 1948? A. Yes. I began to read his reports and I knew that ninety-nine out of one hundred or not ninety-nine out of one hundred, just a certain percentage of them were false information.

Q. I see. Well, did you call him on any of that so-called false information? A. Why, no, I didn't call him on it.

[1918] Q. Why? A. Because, what is the use of wasting the time with a fellow trying to write you letters telling you things is not facts?

Q. Don't you believe in bringing a man in when you think he is giving you false information? A. Sometimes I do and sometimes I don't.

Q. You had him here for four years. A. I didn't have him here for four years. He stayed here for four years, but I didn't have him here.

Q. You were getting reports from him for four or five years? A. Well, reports come in the office, yes.

Q. And you thought they were false information? A. A whole lot of them, yes, sir, yes.

Q. And yet you didn't do anything about it? A. That's right.

Q. What was the information that you deemed to be false, particularly? A. When he tells me the situation about the Local Union, what happened here, and what the Local Union was doing, how well they were behaving, and I would find out there was fights in the Local Union and everything else.

[1919] Q. You say that there were fights in the Local Union? A. Yes.

Q. From whom did you find out that there were fights in the Local Union? A. Mostly from Carter, mostly from Fitzgerald, either one of them.

Q. You say you found out from Carter that there were fights in the Local Union?. A. Yes.

Q. When did you find out from him? A. Sometime during that period, I don't know.

Q. During what period? A. From 1948 to 1952.

Q. Well, how would Carter know about it? A. Well, evidently he had men in the Local Union—their jurisdiction is right across the river here, and his men attended the meetings here.

Q. You say Carter attended the meetings? A. I didn't say Carter. I said his men.

Q. Carter's men attended the meetings? A. Wait a minute. That I don't know, but I am taking the proposition that his men attended the meetings and reported to him, because he called us up.

Q. Who, Carter?

[1920] Q. When was the first time he called you up about it? A. Maybe in 1948, 1949, sometime in that period.

Q. Then did he call you up after that? What did he tell you the first time he called you up? A. After—only told me how the local was running, how it was disorganized in the eastern part, or the western part of the state, I think it is. The eastern part of Pennsylvania—the western part of the state. Am I correct in that? I think so. Outside of these five counties, outside. What do you call that, the western part of Pennsylvania?

Q. No. You mean the western area of the jurisdiction of Local 542; is that what you are talking about? A. That is what I am talking about.

Q. What in particular did Carter tell you about that area? A. Told me it was unorganized, and the men wasn't getting wages, and half—wasn't organized, and half of the contractors wasn't organized.

Q. Carter was telling you all this? A. Yes, Carter was telling me all this over the phone, and so did Fitzgerald.

Q. Let us take Carter for a minute. A. Well—

[1921] Q. I will get to Fitzgerald a little later. How frequently would Carter tell you about these things? A. Every once in a while when I would get talking to him. Might be a month, might be two months, might be two weeks, whatever time he happened to catch me in the office, or we happened to talk to him, or something else.

Q. Would it be on the telephone? A. Yes.

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[1923] Q. Did you make any record of any of these things? A. No, I didn't keep any records.

Q. You never kept any records? A. Not to verbal conversations, no.

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[1924] Q. Both of these men that you say told you about dissention in Local 542 are now dead, is that right? A. That's right.

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[1935] Q. What contract are you talking about? A. I am talking about the contract they made in 1950. Is that the contract you are talking about?

Q. Yes. A. Well, that is the same one.

Q. Are you saying that there was a written contract before— A. That is my impression.

Q. I see. A. I didn't see a contract now, understand. But that is my impression, there was a written contract and signed—and then Kelly was to try to straighten out the question of the Welfare Fund. I am quoting Mr. Underwood the best I can for the information he gave me, and that Kelly unbeknownst to him, and didn't find it out for a couple of months after the addendum was signed before he found it out, that Kelly had agreed to extend the contract another year. That is my—

Q. Then I think you said before that Underwood told you that Kelly didn't have the authority of the local. A. Yes, I believe he told me that.

[1936] Q. What position did you take at that time? A. There wasn't any position I could take at all at that time. It was a Local Union matter between local contractors and themselves. If they seen fit to sign a contract under those conditions, why should I get into it? I can find enough trouble without doing that.

Q. Did they have the right to make their own contracts then? A. Certainly they did, providing it complied with the constitution.

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[1944] Q. Now, Mr. Maloney, I want you to give me all of the information upon which you relied on the

basis of which you found that there was mismanagement of the Local Union from the time Underwood took office. A. Well, we got complaints from the contractors.

Q. All right. Start at the beginning, now. A. All right. I am trying to. We got complaints from the contractors. First I would like to tell you that the order of International supervision outlines the different questions in that order. I want you to know that. And other times when—

Q. One, you got complaints from contractors, is that right? Now, what contractors? A. Are you testifying or me?

Q. You are testifying, Mr. Maloney. You well know it, too. A. Don't what?

Q. You well know it, too. A. Well, I know that, but I want to know all about it, but I don't want you to tell—

[1945] Q. I am asking you a question. I said what contractors? A. I didn't say contractors, did I? You said complaints from the contractors. That is what I said.

MR. FREEDMAN: Will you repeat the answer, Mr. Reporter?

(The answer was repeated by the reporter.)

By MR. FREEDMAN:

Q. Does that refresh your recollection? A. I beg your pardon. I just didn't remember. Of course, I have one contractor in mind, a fellow up in this job up in the center part of the state, he had continuous trouble, and he would call me, and I would have him either call Mr. Underwood or call Mr. Underwood myself.

Q. Who was he? A. A fellow by the name of Healey, S. A. Healey.

Q. What was the nature of his complaint? A. He had different kind of complaints. One, that the men would walk off the job, or the business agent come up there and tell him all the things he would do if he didn't do such and such a thing, and they shut down his job one time because the men didn't show up, and the compressor was

running without a man on it, and the man on it was sick, and they shut his job down and stopped his job because he didn't have a man on the compressor.

[1946] Q. Is that what he told you? A. That is what he told me.

Q. Did he put it in a letter? A. Oh, no.

Q. Did you make any investigation? A. Called Underwood about it and asked him to try to get it straightened out.

Q. And what did you tell Underwood? A. Told Underwood to see what was the matter up there. I told him the business agent up there was evidently off the track. He was either a new business agent or didn't know what he was doing, and for him to investigate.

Q. And what was the result of that? A. The result was that invariably the job got straightened out.

Q. Were there any other complaints from this particular contractor? A. Not as I know of.

Q. That is the only complaint? A. Half a dozen along the same line.

Q. Now, what other contractors? A. Outside of Merritt, Chapman and Scott.

Q. First of all, before we leave that one, give me the date, please, that that complaint was made to you. [1947] A. I can't give you the date.

Q. Approximately. A. During the period of the job. What the period of that job was going on, the date.

Q. Well, give us the date. A. I don't know the date.

Q. Give me the year, at least. A. I don't know the year.

Q. You don't even know what year it was? A. No. I think it was 1951. I don't know that. That is just a guess.

Q. What other contractors made complaints? A. No other contractors made complaints to me outside of Merritt, Chapman and Scott. They made their complaint about this river job down here.

Q. What was that complaint? A. They complained

the men wouldn't go back to work. I just read it to you from Fitzgerald's report, from May 11 to 23, they would not go back to work.

Q. Was there any other complaint there? A. Not to me direct; no.

Q. Did you investigate the Merritt, Chapman, Scott complaint, too? A. I turned it over to Mr. Fitzgerald to investigate it.

[1948] Q. What did you personally do about it? A. I went to Europe.

Q. Now, I think you said that no other contractors made any complaints. A. I can't recollect at the present time, Mr. Freedman.

Q. All right. Now, what other evidence of mismanagement do you have? You said that was one evidence of mismanagement. A. Well, another one was that they elected themselves for a four-year term without getting permission from the General Office or considered the bylaws, to get the bylaws corrected. Another one was that every time that they had any dispute around here they got in trouble with the Building Construction Trades Council.

Q. Let us take one at a time. We will get to all of them. A. You asked me and I am trying to tell you.

Q. All right, we are going to get to every one of them. You say they elected themselves for a four-year term. A. That's right.

Q. When did you first find out about that? A. I didn't find out about that until he made a complaint that he was elected for four years, that he said—

Q. Who made the complaint? A. I don't say he made a complaint, but he made a statement he was elected for four years after this dispute started.

[1949] Q. Who are you talking about? A. I am talking about Underwood. That he elected himself for four years. I tried to find out where he got permission to elect himself for four years, and I couldn't find it out, because he never got permission from the General Office. To get permission from the General Office to change the bylaws,

you got to get permission from the General Office, according to our constitution, to change the bylaws, and the bylaws was not approved by our General Office.

Q. And that is why you say he is holding office illegally? A. That's right.

Q. Did you do anything about it? A. I am telling you about it right now.

Q. I say, did you do anything about it when you first learned about it? A. I am not so sure whether I did or not.

Q. When did you first learn about it? Give me the date on that, please. A. Oh, sometime before we got in all this dispute here, and sometime before August of 1952.

Q. Place it a little more specifically, please. A. I am giving you the best of my knowledge, Mr. Freedman.

Q. Sometime before August of 1952 is meaningless. How long before? [1950] A. Well—

Q. Was it a day before or a week before or a month before? A. I don't know. It might have been a month before. It might have been two months before. I can't tie you down to a date. I didn't keep track of all those dates.

Q. Didn't you know about it at the time he was elected? A. No, I didn't.

Q. Wasn't any report made to you of the elections? A. No, not for four years.

Q. And you say that no one told about the election of four years until— A. As far as my knowledge is concerned, I didn't know.

Q. —shortly before you invoked supervision in August of 1952? A. That's right. I wouldn't say shortly. Sometime before that.

Q. Was it a long time? A. I told you, I don't know the exact time.

Q. Give me it as closely as you can estimate. A. All right. Suppose we say three or four months. That is a guess.

Q. All right. And that is, you say, another evidence of mismanagement? A. One of them.

[1951] Q. All right. Now, what else? A. Well, the affiliation and the contacts they had with the Philadelphia Building and Construction Trades Council; very unsatisfactory.

Q. Now, what did you think about the Building Trades Council? A. I thought things like every other Building Trades Council, if you are going to belong to the labor movement, you ought to be all united in one organization. The Building Trades Council of this town, and also all other towns, all building craftsmen, what they have done is promoted the interests of the engineers in a lot of cases by unity of action, and there couldn't be no unity of action of the Building Trades Council with Local 542 out of it.

Q. Did you feel they were promoting the interests of the engineers in this area? A. Not by staying out of the Council.

Q. I asked you whether the Building Trades Council in this area were promoting the welfare of the engineers during this period of difficulty? A. When they were out of the Council? A. In and out.

A. When they were out of the Council, I don't believe of the Council?

Q. In and out. A. When they were out of the Council, I don't believe the Council was promoting them. When they were in, I think they [1952] cooperated with them.

Q. Did you ever criticize them? A. Criticize who?

Q. The Council. A. No, but I asked Mr. Underwood several times why he didn't belong to the Council.

Q. Are you aware of the fact that the Building Trades Council cooperated with the employers at the time the injunction was handed down?

THE COURT: There was a proper objection made to that.

You may read the question on page 209.

MR. FREEDMAN: The bottom of the page, sir?

THE COURT: As repeated by the reporter.

MR. FREEDMAN: The last two lines?

THE COURT: Yes. I am going to let you get the question in.

"Q. Are you aware of the fact that the Building Trades Council cooperated with the employers at the time the injunction was handed down?"

A. The only information I have on that question is what Underwood told me.

[1953] By MR. FREEDMAN:

Q. And what was that? A. Something that, along the line that he couldn't get no cooperation out of the Building Construction Trades Council.

Q. Did you do anything about that? A. Yes.

Q. What did you do? A. In May of 1952—I am a member of the General Executive Board of the Building Construction Trades Council—members of the Council—officers of the Council come to Boston to the meeting complaining about a job out here in this territory that was non-union. In Levittown, I think is the name of the job out here. I am not sure of that, either.

And I asked them what was the trouble between the Building Construction Trades Department and the engineers. I asked them that in front of several witnesses. And they thought—they said then that all the difference that they had was straightened out, and that Underwood had agreed to give them cooperation on this particular job, and they thought everything would be all right, and they thought that everything from there on would be proper.

[1954] I consulted Underwood about that situation, and he said he thought at that particular time everything was all right, and that he had made them come down off their high horse, and he thought everything would be all right then. Similar words to that effect.

By MR. FREEDMAN:

Q. That was one year after the injunction, is that right? A. In 1952. If that was a year afterwards, that is the year.

Q. So that between the time the incident arose in May of 1951 and the time of this incident you just described, one

year elapsed. Did you do anything during that year? A. No.

Q. You never took it up with the Building Trades Council to try to find out what the difficulty was between the Council and the Union? A. Every once in a while I think Underwood, when he talked to me, I would bring the question up to him, and he would give me some kind of an answer. I don't really know.

Q. Did you take it up with the Building Trades Council? A. I did not.

Q. Why? A. Well, I didn't take it up with them. I was satisfied [1955] for to support the Local Union here in what their action was.

Q. You thought they were right? A. Well, their statement sounded all right to me, and I let it go at that.

Q. Why didn't you take it up with the Building Trades Council, if you thought they were right? A. I didn't want to take it up with them. They were satisfied to stay out of the Council and wanted to do it. I found out all they were causing was dissention in May of 1952.

Q. You believed in the Building Trades Council, didn't you? A. Believed in the Building Trades Council? Certainly, I believed in the Building Trades Council.

Q. And yet you had a controversy in May of 1951 which showed there was friction between them. A. You are telling me there was friction in 1951 in the Building Trades Council and I don't know anything about it.

Q. You knew about it, didn't you? A. How did I know about it?

Q. Didn't Underwood tell you? A. Not in May of 1951, no.

[1956] Q. You mean you didn't know about it in May of 1951? A. No.

Q. When did you first learn about it? A. When he told me about it, after he told me about the injunction, which might have been November or December.

Q. Of 1951? A. Of 1951.

Q. What did you do about it when you learned about it? A. Like I always do, I wait for the Board Meeting of the Building Trades Council Department, so I can bring it up in front of the Board.

Q. Didn't you try to do anything in that time? A. No, I didn't try to do anything in that time. I can't do it until the Board meets for to take action of that kind.

Q. But you didn't try to straighten it out beforehand? A. No, I didn't, because 542, the information I was getting from Underwood, 542 was perfectly satisfied.

Q. You felt it was good information at that time? A. I did at that time, yes.

Q. And you agreed with him? A. What are you trying to make me say?

Q. I am not trying to make you say anything. A. Well, according to your statement just now, I didn't say anything about agreeing with him.

Q. I say, and you agreed with him at that time that [1957] they were right?

MR. GARBARINO: Shall I answer that?

THE COURT: No. Go to the middle of page 214.

MR. FREEDMAN: Page 214:

By MR. FREEDMAN:

Q. You agreed with 542, did you not, that they were right in connection with their argument with the Building Trades Council? A. In what way do you mean I agreed with them?

Q. You felt that they were right. A. You mean I commented they were right?

Q. Yes. A. Well, I didn't.

Q. Well, did you comment they were wrong? A. No.

Q. You mean you remained neutral? A. In that particular spot I kept my counsel to myself.

Q. And is that why you didn't do anything about it? A. That might have been one of the reasons.

Q. Was anybody from the Council in touch with you at that time? [1958] A. No, sir.

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By MR. FREEDMAN:

Q. Shortly after the injunction was handed down, you knew that 542 had withdrawn from the Council? A. I would say in November or December when I found out, yes.

Q. You didn't know about it until November or December of that year? A. I don't think so, no.

Q. All right. Now, what other evidences of mismanagement can you tell us, so far as existed in Local 542 prior to your order of supervision? A. One of them was that the information I got that the lawyers was running the Local Union, for one question.

Q. All right. Let us take that. Lawyers running Local Union, is that right? A. That's right.

Q. Where did you get the information from? A. Well, I believe I got that off the phone, too.

Q. From whom? A. From Carter.

Q. When? A. Sometime in—before the order was issued. Shortly [1959] before the order was issued.

Q. Shortly before the order was issued? A. Yes.

Q. How shortly? Weeks? A. Oh, a week or two weeks.

Q. Did he say what lawyer? A. Yes.

Q. Do you want to identify him? A. Yes.

Q. Go ahead. A. The fellow sitting across the table from me.

Q. Are you talking about me? A. Yes.

Q. Did he say he had any objection to the attorney? A. No, he didn't.

Q. What did he say about the attorney? A. He said the attorney got in a meeting with the General Executive Board to draw this resolution up to present to the Local Union and walked up and down the floor and said, "Well, now, who else can we put in this thing to make it good?" And then decided for to draw the order up and have it ready

in case anything happened, and in case there was a supervision order put out.

Q. He told you that I attended the Executive Board [1960] meeting immediately prior to the lawsuit, is that what you are talking about? A. That is right.

Q. And that I made the statement that you just attributed to me? A. That's right. He made it to me.

Q. Did Carter say he was there personally? A. No, he didn't.

Q. Where did he get his information? Did he tell you? A. I don't know.

THE COURT: Continue on the next page.

THE WITNESS: He says you were there 8:30 in the morning.

By MR. FREEDMAN:

Q. Tell me some more about that. He said I was there at 8:30 in the morning? A. Yes.

Q. At the Executive Board meeting? A. That's right.

Q. What else did he tell you about it? A. He said you insisted on putting certain men in.

Q. Putting certain men in where? [1961] A. Putting certain names in there and putting different claims in.

Q. Yes. What else did he say? A. That is about all I can recollect. You get it over the phone, you don't pay too much attention to them until something comes up like this.

Q. All right. What other evidences of mismanagement can you give us? A. Refusing to obey the order when I sent him the letter of August 11 to call off the strike.

Q. Yes. What else? A. That the Local Union would go down to Washington to the Wage Adjustment Board and try to adjust their matters without consulting the Inernational office, get themselves mixed up in with the Wage Adjustment Board, and then when they get mixed up and wouldn't get the approval of the wages, hand it over to the General Office to try to get them adjusted.

Q. Now, be a little more specific about that, will you, please. When did they go down, and what did they try to do? A. They went down from the Local Union down here.

Q. Who is they? A. Underwood.

Q. Yes, and who else? [1962] A. I don't know who else he had with him. I wouldn't be surprised he had McDonald with him, too, when they would make a wage claim. They knew the rules of our organization, that we ruled the Wage Adjustment Board, it had to come through the International office, or the Wage Board wouldn't approve the wages. They got into that, maybe after getting it all stirred up, and then come over to the General Office to try to get it adjusted. Invariably the General Office straightened it out, too.

Q. You mean they didn't consult your office at all about any of these? A. That's right.

Q. Can you tell me specifically just what incidents you are referring to? A. I am talking about some of their wage adjustment scales.

Q. I want you to tell me specifically. A. I can't do that, Mr. Freedman, because I would have to have a memory of all the things that happened in our International Union. I can't do that.

Q. When you invoked supervision you did it on the basis of certain evidences of what you call mismanagement. A. You can read the order. It says in there what it is. You got a copy of the order here. I will read it for him.

[1963] Q. Well, I am asking you now. A. Well, I am telling you to read the order.

Q. Well— A. It talks for itself.

Q. It so happens that I am asking you now to identify the incidents which you say are evidences of mismanagement. Now, you will please answer the question. A. I did. I answered the question. I have told you that.

Q. Can you give us the incidents that you referred to when you said they went down to Washington to adjust matters themselves? A. That's right.

Q. When did they go down? A. Trying to get a contract through the Wage Adjustment Board. What the date is, I don't know. It was sometime in 1951, I would say; in the early part of 1952.

Q. And whom did they see down there? A. Well, they evidently seen some Government agents down there that they thought they had some influence with for to get get the wages approved.

Q. Well, where did you get this information? A. I wasn't with him when they saw him.

[1964] Q. Where did you get this information? A. I got this information from my—well, I got the information from Underwood himself, that he went over there and tried to get it adjusted.

Q. Did you object to it? A. No, I didn't object to it, but I knew it was not the procedure, and I told him it wasn't the procedure of our International Union.

Q. What did you suggest then? A. I suggested he bring it through the International office when he wanted things approved like that, so we could take it over there as a whole, because they would bury it over there if we didn't.

Q. When you learned what he was trying to do, did you give him any support? A. Yes, I did. We went over and got his wages adjusted.

Q. When was this? A. In 1951 and 1952.

Q. And you say he didn't keep you informed of what was going on? A. That's right. Not until he got in a jam over there.

Q. How many instances can you recall where that was done? A. Well, I am only guessing at that. It might have been [1965] two or three.

Q. What were the other instances? A. Same thing.

Q. I mean when? A. About the same time.

Q. Well, how many occasions would he have to go down there? On how many contracts? A. I never went down there at all. My assistants used to go down. They

were assigned to the Wage Adjustment Board for to take care of the affairs of the International Union.

Q. So that you are now speaking not from personal knowledge at all, are you? A. Only what Underwood told me.

Q. And he told you he had gone down. A. He had gone down in there.

Q. I take it then he wasn't trying to hide anything from you? A. After he got into trouble and couldn't get it approved.

Q. When was it he came to you? A. Sometime between 1951 and 1952.

Q. Will you state a little more specifically when it was? A. I am thinking I am doing pretty good getting that close.

[1966] Q. You mean within a year? A. No, the fall of 1952 and the spring of 1952. Within six or seven months.

Q. You mean the fall of 1951 and the spring of 1952, is that what you mean? A. That's right.

Q. You can's place it any closer than that? A. No, that is the best I can do for you.

Q. All right. What other evidences of mismanagement were there? A. The Local Union not recognizing the International agreements without a long dispute and argument.

Q. Local Union not recognizing International agreements, is that right? A. That's right.

Q. Tell us more about that. A. Well, the International Union has, makes international agreements with certain contractors of the country that we guarantee no strike on our work. And for that, why, we are paid the wages and conditions and work union all over the country. When there was trouble down here, we find out that Local 542 would pull these jobs. And we would call and ask them to put them back to work, that we had an international agreement with the contractor, and they [1967] invari-

ably give you a lot of excuses why they wouldn't do it.

In one particular case we had to get an affidavit off of the contract, and I am not sure whether we sent a copy of the affidavit to 542 or not. On this Koppers Company job they had a subcontractor name of—trying to think of the name, I can't think of it. But anyway, we had an agreement with the Koppers Company, an international agreement, and we couldn't get them to go back to work unless we got an affidavit off the contractor that he was a subcontractor of the Koppers Company and was entitled to work under the international contract. They took about, I say two or three weeks to get the thing settled.

We had another contract, I believe with—I can't think of the name of the contractor now—probably could look it up and find out—where we asked him why he didn't put him back to work, and he said that the contractor was a part and parcel of the Arbitration Committee around here, and he wasn't going to put them back to work. I believe it was Stone and Webster, I don't know, I am just guessing at that name. And that took a week or two to get straightened out. In other words, he didn't want— [1968] when I say he, I mean the Local Union under his direction didn't want to recognize international agreements, as far as 542 was concerned.

Q. Isn't it a fact that those contractors that you are talking about operated under the contracts in the Local Union areas? A. They always do. In every place in the United States. That was a part of the international agreement.

Q. And when there is no contract with the Local Unions in effect, then there isn't any contract with the others; there is nothing to go by, is there? A. Yes. The contract with the international agreement specifically states that they will pay the conditions as agreed to eventually. One of the conditions of the international agreement was they would go to work and keep on working and whatever the Local Union—not only 542, but any other place in the United States, whatever agreement would come to,

they would have to pay the back pay if it was coming, or anything else. But they keep on working. The international contractor that had the international agreement.

Q. Do you have those agreements with you? A. No, I don't have no agreements at all.

Q. I ask you to produce some of those standard agreements. A. I guess they will send you one.

[1969] By MR. FREEDMAN:

Q. Were you aware of the fact that these international contractors, or these contractors with whom you had international contracts, were taking advantage of the injunction? A. No, I am not.

Q. Didn't Underwood tell you that? A. No, he didn't. He never mentioned that to me.

Q. You were aware also that at the time of the injunction there was an independent contract in effect, wasn't there, in the same area? A. You will have to ask Underwood that question. I can't answer.

Q. Didn't you know? A. No.

Q. You had no information about it? A. No.

Q. Carter didn't tell you anything about that? A. No. Are you talking about 1951 now, or 1950, or 1952? Tell us what you are talking about.

Q. 1951. A. 1951?

Q. Yes. A. May of 1951?

[1970] Q. Yes. A. I didn't know whether there was any independent contracts, no.

Q. Didn't you know that the independent contractors were paying twenty-five cents an hour more than what the association contractors were paying under the injunction? Didn't you know that? A. Yes, I knew that. I don't know whether—you are asking me if they were independent contractors. I know that a—all I know about that is what Mr. Underwood told me, that some of the contractors were paying twenty-five cents more than the contractors association that he had the dispute with. That is the complete knowledge that I had on that case.

Q. And you know the international contractors were operating under the lesser rate by virtue of the injunction, isn't that right? A. I don't think so. That never was brought to my attention. But that is not the idea of the international agreement.

Q. You don't think that they were operating under the lower rates? A. No, I don't. I can't see them violating an agreement that bad. Do you object to me talking to my attorney? [1971] How do you have to get information that way? Haven't I got the same privilege that you have?

Q. Not while you are on the stand. A. I just wanted to see if we could get it fair both sides.

Q. We will see just what your standards of fairness are very soon, Mr. Maloney. A. Well, I think it is pretty good. Get my word in ahead of time.

Q. Well, however, we will see what the court thinks about it later. A. All right. I just got my opinion, is all.

Q. Are there any other evidences of mismanagement that you want to tell us about upon the basis of which you invoked your order of supervision that you can tell us about? A. Did I mention the fact that the Local Union took us to court? That is one of the reasons.

Q. And was that one of the reasons upon which you relied in invoking supervision? A. One of them.

Q. Was that one of the stronger reasons? A. One of the reasons.

Q. Do you understand the question? [1972] A. Yes, I understand the question. I answered it, one of the reasons.

Q. Was it one of the stronger reasons?

THE WITNESS: Well, I will ask the same question, what do you mean by strongest?

By MR. FREEDMAN:

Q. Did you rely on that reason more or less than any other reasons? A. It was one of the general reasons.

Q. Are you going to answer the question, Mr. Maloney? A. I am trying to answer. I am not trying to evade

any question around here if I understand it, Mr. Freedman.

Q. Do you understand that question? A. I don't quite understand it. That was one of the reasons. If you are trying to get me to say it was one of the strongest reasons, I am not going to say so. It was one of the general reasons.

Q. I am asking you if you relied on it more or less than any of the other reasons? A. Why, it was about the same.

Q. Any other reasons that you had, any other evidences of mismanagement upon which you relied? A. One of the many reasons—one of the many reasons was [1973] that the Local Union tolerated and allowed unauthorized clubs to operate inside the Local Union. There was an order out four or five years ago, I believe after the local was taken under supervision, authorizing them to break up them clubs, which they didn't carry out.

Q. You mean social clubs? A. They were clubs for to discuss the business of the International Union. The same thing they are used for now.

Q. What clubs are you talking about? A. I am talking about the clubs in the City of Philadelphia. I don't know the names of them, one one of them. I think one of them is the Triangle Club, and one of them I think is the Italian Club. I don't know the name of it. And I understand there is another one that I don't know the name of either.

Q. And you tried to break those up. A. The International—our Executive Board ordered them broke up. It was against the policy of our International Union for us to do that. That was for two or three years, order.

Q. You say it was in effect two or three years before you invoked supervision? A. Yes, sure. We couldn't get it broke up, so that is one of the reasons why we have to have supervision, to [1974] break it up.

Q. Did you ever issue any direct order on it? A. Yes, there is an order from the General Executive Board on it.

Q. To Local 542? A. Yes.

Q. What is the date of it? A. I will have to look that up for you, too.

Q. Will you, please? A. I don't believe we got it with us. It is an Executive Board order printed in our records.

THE COURT: Continue at the lower third of Page 234.

By MR. FREEDMAN:

Q. All right, Mr. Maloney— A. Could I ask a question here?

Q. No, you cannot. You can only answer them, unless what you want to say to in answer to any question. You will get an opportunity to ask all the questions you want when you get out of this room. A. I just want to clarify the situation. Go ahead.

[1975] Q. What other evidences of mismanagement did you allege exist in 542? A. The fact of the matter was that they went on strike for 102 days, one hundred and some odd days, I don't know whether it was 102 or not, and that the Building Trades Council of this city, men were on the street, and the fact that the Building Trades Council of the City of Philadelphia refused to work with engineering, hoisting and portable engineers, on any job until this matter was adjusted, so they could all go to work.

Q. All right. So that I get it straight, first you said— read it back to me.

(The answer was repeated by the reporter.)

By MR. FREEDMAN:

Q. All right. Did you support the strike up to that time, Mr. Maloney? A. Well, they were trying to get it adjusted.

Q. I ask you a question. Did you support the strike up to the time you invoked supervision? A. Certainly I did.

Q. Well, what do you regard as the magic number of days that a strike should last?

[1976] THE COURT: The bottom of Page 237.
THE WITNESS: What do you mean by magic?

By MR. FREEDMAN:

Q. Well, is there any fixed number of days that you say a strike should run? A. No.

Q. You say a strike shouldn't run 102 days? A. To my knowledge, this was the longest construction strike in my history as General President in the construction industry. After repeated efforts for me to try to get it adjusted.

Q. Now, will you please answer the question. A. I can't answer the question—I am giving you my answer right now.

Q. You think 102 days is too long for any strike to run, is that what you are saying? A. In the construction industry, yes.

Q. In other words, if a contractor can hold out for three or four months, then you would say that the Union should fold up; is that what you are saying? A. Under the conditions that existed in Philadelphia, I believe that the length of this strike was too long.

Q. Did it make any difference to you that the strike was [1977] just about won? A. It made a whole lot of difference to me.

Q. Did you make any investigation to find out? A. Yes.

Q. Whom did you make inquiry of? A. From Underwood, from McDonald.

Q. And what did they tell you? A. They told me on about July of that year—July, long before the first of July—first two or three days in July, I would say, in a meeting in Washington, if I would give them three or four days more the strike would be settled. And after the three or four days I told them—he called me up on a Tuesday—he called me long distance, and I believe he get me in Chicago.

Q. When was this? A. About July 5th or the 6th.

Q. Of 1952? A. 1952. And said that he would have to have a little more time, that he couldn't settle it that quick. I said all right, we will give you some more time.

And everytime I talked to him about trying to get the job settled, he wanted some more time. And every time I stretched it out, after telling him that in four or five days that he had to settle the strike or come to some [1978] kind of an agreement on it, he said he could settle it in three or four days. Then it drifted on from July 4, four or five weeks later before I took any action.

Q. Why were you so anxious to get it settled? A. Because I wanted the men back to work. I was getting petitions from people that they wanted the local put under supervision, and I was getting letters from attorneys that they had a thousand members in—that figure maybe, I am just guessing at that figure. A figure around there—that he represented a certain group that wanted a new charter.

Q. And that is why you wanted to terminate the strike? A. One of the reasons, yes.

Q. What other reasons? A. The other reason, that I got a telegram from Governor Fine in the State of Pennsylvania asking me to use my good offices to try to get the matter settled; that in the period, the last two or three years since Mr. Underwood or the present officers—I don't know whether he mentioned Underwood's name or not—but the present officers of 542, there had been disturbance for the last two or three years since he had been in office, in the office of the Local Union; and he asked me if I would use my effort to try to get the men back to work, that it was a public [1979] necessity, and a lot of public work, and a lot of very important work around Philadelphia territory was tied up, and he wanted to get it adjusted.

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[1983] Q. Did you find out what percentage of the members in 542 were working and how many were on strike? A. I knew quite a lot of them were on strike.

Q. How many, would you say? A. That is only a

guess. I don't have the records. Only what the petition said.

Q. Did you try to find out how many of your men were on strike? A. How many of my men were on strike?

Q. Yes. A. The whole local was on strike, according to the petition. They had the job tied up.

Q. You mean none of the men in the local were working? A. Oh, yes, they were working up here on a steel job up here in Buck County, I think is the name of it.

Q. Do you know how many men were in the local at that time? A. Members?

Q. Yes. A. No.

[1984] Q. Don't you have any idea at all? A. I would have to look the record up to find out.

Q. You don't know whether it is five hundred or five thousand? A. You are asking me for a figure, and I don't know. There might have been two thousand and there might have been four thousand.

Q. And of that number can you state how many were employed and how many were unemployed? A. No, I can't.

Q. Didn't you ever get any information about it? A. No, I didn't. I knew according to the letters and the information I had asking for the local to be put under supervision there were a lot of them walking the streets.

Q. You got no official information from anybody as to how many were working and how many were not working? A. I got the letter, as I told you.

Q. What letters are you talking about? A. I also understood in this particular procedure that the men were picketing the jobs wasn't even members of our organization. They belonged to the longshoremen's organization.

Q. They were members of the Marine Trades Department, weren't they? A. I don't know what the name is. The longshoremen—I supose they are.

[1985] Q. And you were affiliated with them, weren't you? A. Yes, sure.

Q. And they promised to give support to the local, didn't they? A. I don't know.

Q. Did you try to find out? A. I never asked the question.

Q. Before you answer the question, don't you think it is incumbent on you to find out before you speak so unfairly about these people?

MR. WOLFE: Well—

THE WITNESS: I told you that—

By MR. FREEDMAN:

Q. What is your answer to that question? A. The answer to the question is that they had men from the Marine Department picketing the jobs, which in my opinion wasn't proper.

Q. You mean you didn't want their support? A. I wanted their support, but I didn't want them to picket the job. I wanted the engineers to show up on the job and picket.

Q. How many engineers were not working at that time? A. I don't know.

Q. Why don't you try to find out? [1986] A. Where am I going to find out?

Q. You had plenty of representatives, didn't you? You could ask. Did you ask Underwood? A. I don't know whether I did or not.

Q. You could have, couldn't you? A. I could have asked him, yes.

Q. And he would be in a position to tell you? A. I was very sympathetic with Underwood until July 4, with all the things he could settle. I believed pretty near everything he said.

Q. Let us get back to this evidence of mismanagement. What other evidences of mismanagement can you allege? A. Well, the most—I wouldn't say the most, but one of the reasons was the uncooperative attitude of Underwood with the contractors. He had his mind made up. And I am only telling you what he told me—that he was going to make those contractors back up. He was going to put them out of business. He was going to make them get

another organization. He was going to put the organization out of business. And I felt that that wasn't our business as a union trying to break up contractors' association.

Q. When did he tell you that? A. He told me that two or three times. Told me that in Washington and told me in Chicago.

[1987] Q. What other evidences do you have? A. That is about all I can think of.

Q. That is about all? A. Well, all I can bring to my mind now, yes.

Q. And you relied on every one of these in invoking supervision? A. Some part of it.

Q. Well, which part didn't you rely on? A. Well, every one of them was a factor in the situation.

Q. That is what I am asking you. A. Yes.

Q. You relied on every one of the reasons you are giving, didn't you? A. Yes.

Q. And you can't remember any other reasons than you have given us? A. I can't bring it back to mind at the present time, no.

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[1988] By MR. FREEDMAN:

Q. Mr. Maloney, you said before that the Building Trades Council went on strike and refused to work with the engineers during the period immediately preceding supervision in August of 1952.

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By MR. FREEDMAN:

Q. Did you say that? A. I said something similar to that. Whether I said that or not, I don't know.

Q. Is that statement incorrect? A. Well, I wouldn't say it was incorrect, no. I said something similar to that. But the record of what I said is on the record.

[1989] Q. Yes, that's right. How did you know that the Building Trades Council, or the members of the Building Trades Council had gone on strike and refused to work with the engineers? A. I read it in the paper, for one reason.

Q. Yes. What is any other? A. And I believe that I was in Atlantic City at the time, and I think that one of the carpenters' representatives notified me in the lobby at the Ambassador Hotel. I can't tell you his name, or which one it was. That is where I got it.

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Q. Well, is that the extent of your information about the strike of the members of the Building Trades Council? A. If I am not mistaken it was—I was notified by somebody from the Building Trades Council that they had voted to refuse to work with the engineers. Who it was, I can't tell you at the present time.

Q. And where did you get that information? A. I think I got that over the phone.

Q. From whom? [1990] A. From somebody from the Building Trades Council.

Q. Don't you remember who it was? A. No, I don't. It seemed to be common knowledge. Everybody knew it in Atlantic City.

Q. You don't remember who called to tell you about it? A. No, I can't recall right now.

Q. Well, you don't just take calls from anybody that calls you, do you? A. No, I don't. I take calls from anybody I know, but that don't mean that I got to remember everybody that does call me.

Q. What else did he tell you, this fellow who called you? A. Well, most of my information come from this delegate from the carpenters, that the Building Trades Council refused to work with the engineers until such time as the strike was settled.

Q. Is that all that he told you? A. About all, yes. That covered the whole subject.

Q. Why did he say they would refuse to work with the engineers? A. Because they were walking the streets while the engineers were working on other jobs and hiring pickets from another Local Union and paying them, that wasn't affiliated with the Building Trades Council, to picket their jobs, to keep them from working.

[1991] Q. Did you make an investigation into that? A. Yes, I did.

Q. What investigation did you make? A. I made an investigation to find out whether the statement was true or not, and found out it was.

Q. What investigation did you make? A. I asked Underwood who was picketing at the jobs, and I asked one of the people who was picketing the jobs, and I contacted the Maritime Council, and they told me they were picketing the jobs.

Q. Yes. A. And getting paid for it.

Q. Did you demand that the Maritime Trades Department discontinue picketing? A. Yes, I did.

Q. Whom did you make that demand upon? A. On the man in charge of this District. I can't think what his name is now.

Q. Who was it, do you remember? A. I don't know. I am saying I can't remember the name.

Q. And did he discontinue? A. From what I know, I understand.

Q. What reason did you give him for telling him to discontinue picketing? [1992] A. Because I didn't want that situation to continue, I wanted to get the strike settled.

Q. And you figured that by discontinuing picketing you would get the strike settled? A. One of the reasons, yes.

Q. Did you feel that it was legal for the Building Trades Council members to refuse to work on any job where the engineers were working? A. They could do what they wanted. They were on the streets, anyway. A lot of them were. About 6500 of them was on the streets at this particular time, and the jobs were being picketed by the Marine Industries Association, and a certain amount of these people working up here in Buck County, and the 6500 of the Building Trades Council walking the streets. That was one of the main claims that the Governor had about some of the main projects around here being stopped.

Q. Now, where did you get the number 6500? A. Got it out of the paper.

Q. I see. Did you check to see whether that number was right? A. No, I did not.

Q. Do you know whether that 6500, or whatever the number was, do you know they were out of work because they were forced out or because they voluntarily refused to work? [1993] A. I think they were forced out when the pickets went on. A union fellow don't go through the picket line unless he absolutely is starving or something like that.

Q. Let me refresh your recollection. Isn't it true, or weren't you aware of the fact that the Building Trades Council members just walked off the jobs where there were any engineers? A. No, no, I don't remember that at all. That never was brought to my attention. If the pickets were on the job, they refused to go through the picket line.

Q. Who refused to go through the picket line? A. The other Building Trades Council.

Q. Are you saying now that the Building Trades Council worked on every job where there were no pickets? A. Well, I would—I can't prove that, but I would surmise that would be the case.

Q. Well, as a matter of fact, you said a moment ago that the members of the Building Trades Council simply refused to work with the engineers. Didn't you say that? A. That is what they said.

Q. Yes. So that actually it was by their own voluntary act that they weren't working, not because they were forced not to work. A. They wasn't forced at all. The fact of the matter was they put pickets up there, and they don't want to be charged [1994] with going through a picket line.

Q. Who put the pickets up there? A. 542 hired the marine organization to put the pickets up there and paid them.

Q. We are talking about those jobs where the engi-

neers were working. Where they were working there were no pickets, even you will appreciate that, won't you? A. I guess that's right.

Q. On those jobs the other members of the Building Trades Council walked off, didn't they? A. Why, my information they did. But I don't know whether it is true or not.

Q. On those jobs they walked off voluntarily without there being pickets? A. Yes.

Q. Because they didn't want to work with the engineers. A. No, they walked off the job to force the engineers to settle, where the other 6500 men were walking the streets. In other words, the Building Trades Council wanted to force the other men to work, which happens repeatedly.

Q. Where did you get this information? A. Newspapers.

Q. Is that the information that you rely on? A. No, sir. I know it is true, because afterwards—you [1995] asked me where I got it on the start. Afterwards a lot of people told me. I know they quit work.

Q. As head of this organization of the engineers, don't you think it would have been advisable for you to hold a hearing and take testimony, or certainly to hold hearings of all of the interested parties in your own organization to find out what the true facts were? A. I done that two or three times.

Q. When did you do it? A. I had Mr. Underwood in Chicago with the contractor trying to settle this dispute.

Q. This was before Chicago, wasn't it? A. What was before Chicago?

Q. I mean all this business about the Building Trades Council. A. No, no, it was after Chicago.

Q. Did you call him to Chicago for the purpose of finding out what the situation was with respect to the Building Trades Council? A. I called him to Chicago, no, not the Building Trades Council—because I didn't know anything about the Building Trades Council at that time.

Q. Well, when did you learn about the Building Trades Council? [1996] A. When they notified they wasn't going to work, which was two or three, or I don't know how many days it was before they started court action. I don't know whether it was one, two or three days.

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[2006] Q. Do the locals have the right to make their own contracts? A. Yes, providing they comply with the constitution.

Q. Are the Local Unions in every respect autonomous? A. Just what do you mean by that?

Q. You know what local autonomy means. A. Yes, I do.

Q. Well, I am asking you whether the Local Unions have local autonomy? A. They have local autonomy when they are not under supervision.

Q. Can the International Union force a local to take a contract against its will? A. No.

Q. Mr. Maloney, when did the strike of May, 1952, first come to your attention? A. I couldn't answer that for you, to give you a date.

Q. Well, tell me about. You know about when the strike started. A. Well, I understand it started on May of 1952.

Q. May 1, 1952? A. Yes.

Q. Now, when did you first learn about it? [2007] A. Well, I can't tell you that. It might have been a week, two weeks, three weeks, something like that. Two weeks, maybe. May have been a week, might have been at least a week.

Q. How did you learn about it? A. Probably somebody in my office told me.

Q. And what did you do about it? A. What did I do? I didn't do nothing right, then.

Q. You accepted it? A. What do you mean, accepted it? I didn't do anything about it. Didn't accept it or reject it.

Q. You just let it take its course? A. Yes, sure. Lot of strikes start out that way.

[2009] Q. Did you confer with McDonald before or after the strike started about the Philadelphia situation? A. Never before, but after I did. I conferred with both him and Underwood.

Q. Well, now, when was the first time that Mr. McDonald reported to you anything about the situation in Philadelphia? The strike situation. The strike which commenced in May of 1952. A- I haven't got the slightest idea.

[2010] Q. Did you make any record of your discussions or communications with McDonald or with Underwood? A. No, I didn't. I didn't make any record of them. We talked half the night one time in a hotel. We didn't keep any record of that, either.

MR. WOLFE: You mean you and Underwood?

THE WITNESS: Underwood and McDonald and Wharton and Charlie Gramling and myself.

By MR. FREEDMAN:

Q. When was this? A. In the first part of July, 1952.

Q. The first part of July of 1952. And where was it? A. Washington.

Q. Sir? A. Hamilton Hotel.

Q. In Washington? A. Yes.

Q. What did you talk about? A. About this strike. They come down to talk about it, Mr. Underwood and Mr. McDonald.

Q. And did they tell you about the whole situation? A. Yes, they did, told me they could settle it in a couple of days. I told them I was very anxious for them to go back to work, to get the thing settled, and I didn't want to see [2011] a strike dragged out that long. He said he could settle it in a couple of days. I said all right, then, I won't do anything about it.

Q. Was that your only reason for wanting to have it settled, because it was dragging out too long? A. That's right. One of the reasons.

Q. Weren't you being guided, or didn't you think that you should have been influenced by the fact that the strike was being successfully carried on? A. Well, that is a question, whether it was successfully carried on or not. I was getting letters at that time, which I told Mr. Underwood that night, had about—I don't know whether it had one hundred or two hundred or something like that, from a man that wanted the local put under supervision, that it wasn't being handled right. I explained it to him and told him about it.

Q. Isn't the best way to find out whether it is being successfully carried on to find out how many unemployed you have? A. That depends on the situation.

Q. Did you ask to see how many men were unemployed? A. No, I didn't. Mr. Freedman, let me give you a little psychology in running an international union. You got the lawyer viewpoint. Let me tell you that you have to give the [2012] local man a lot of room and a lot of latitude to see whether they can settle strikes or not, but when they go so far that you can't—they don't want to settle it, and it gets to be a personal issue to the point what this got in Philadelphia, where Mr. Underwood was mad at the contractor, and he wasn't going to settle it, and he told me flatly he was going to break the organization up, and he wouldn't be satisfied unless he done it, I thought that was going too far.

Q. Did you try to find out whether or not there was any possibility of success for the strike? A. Yes, I tried to find out from Underwood, and they told me that they could settle it in a few days.

Q. I am talking about the strike. A. I am talking about the strike, too.

Q. Now, then you talk about the success of a strike, doesn't that mean the winning of your demands, or a substantial part of them? A. Substantial part of them it means, yes; not winning the whole demands.

Q. If your men can hold out, then you can carry on

indefinitely, isn't that right? A. Yes, but holding out at the expense of somebody else. Crucifies somebody else to help themselves.

Q. Who do you mean? [2013] A. The Building Trades Council.

Q. What proof did you have outside of the newspapers that somebody was being crucified? A. I didn't need any more. The Governor sent me a telegram asking me for to try to get it settled. You remember that.

Q. Is that what you relied on, too? A. That is one of the things, yes.

Q. Is that the kind of proof that you relied on to determine whether or not Underwood and McDonald were telling you the truth? A. There wasn't any other things to rely on. I brought them in and got their side of the question, and they told me that they could settle it in a couple of days if I would give them a little more time.

Q. Mr. Maloney, didn't both McDonald and Underwood tell you that there was very little unemployment because most of the men were working for the other contractors? A. They might have. I wouldn't deny that.

Q. So that as a result the members of this organization were waging a successful strike because they could hold out indefinitely, isn't that right? A. No, sir. They told me that if I would give them a couple more days they could win the strike. In July, if we gave them—[2014] this statement can be substantiated—that if I would give them a couple more days they would win the strike, and I said all right. Then as I told you this morning—that was on a, I think it was a Wednesday, I believe, of the week—but Wednesday, we will say. Might say Thursday. One of the two, anyway. And then Underwood called me up on Tuesday and said now we got to have some more time. Some of these fellows agreed to go along has changed their mind on something.

I said, "All right, let's see what you can do. I will give you more time."

Q. Didn't you know that there was very little unemployment of your people; that is of your own members, during this strike? A. No, I didn't know it.

Q. Do you deny that you knew it at that time? A. Yes, sure, I do, with the letters I had there.

Q. Unemployment of your members? A. I am talking about members of the organization that sent me letters. They are in the record here. You don't have to take my word for it. The record will talk for itself.

Q. Well, I would like to see some of those letters where they say they were unemployed. A. They say they were walking the streets, and they want [2015] to settle the dispute. It is in the file. Who the hell has got the file? I ain't.

Q. Then you deny that you were given any information that there was very little unemployment of 542 members during the strike. You deny that? A. Are you testifying or me?

Q. I am asking you. A. I didn't deny anything of the kind. I said it might have been told me. I didn't deny it.

Q. Let me get this straight. Did you know it at that time? A. I don't know whether I did or not. I am saying if they say they told me, I will take their word for it.

Q. Then may I assume that you did know there was very little unemployment of your members? A. You can't assume that. I said if they did tell me, I will take their word for it. Whether they did tell me or not, I can't remember, to the best of my knowledge.

Q. Don't you think that would be a major factor in determining whether or not the strike should be continued? A. No. The major factor in the strike didn't have anything to do with people walking on the street. The major factor was Underwood trying to beat the contractors association and put them out of business.

Q. And that is why you felt he should be replaced? [2016] A. No, no. I gave you some of the reasons this morning why I thought the local should be under supervision.

Q. What do you mean when you say the major factor was Underwood trying to put the association out of business? A. That is exactly one of the things he was trying to do—I want to withdraw that if I said major. One of the factors.

Q. One of the factors in what? A. Of trying to prolong the strike.

Q. Did you know that a substantial number of contractors had already signed up—contractors who had been members of the association, had already signed up under the new agreement? A. Underwood told me, yes.

Q. Did you believe it? A. Yes, I did, yes.

Q. Didn't you regard that as evidence that there would be a successful termination of the strike? A. No, I didn't.

Q. Why not? A. Because there was a whole lot of work tied up around here, one hundred twenty-five million dollars worth of work tied up here that was stopped.

Q. Well, the immediate effect of that, as far as you are [2017] concerned, would be employment or unemployment of your members, isn't that right? A. I am telling you, I was very much interested in the rest of the Building Trades Council around here to have an opportunity to work, too. They are building tradesmen, union workmen just as good as the engineers, and done as much as the engineers to build up the organization. We are only a small unit in the Building Trades Department.

Q. I take it from what you say that you do not care any more about your own members than you do about any other members of the building trades, is that right? A. You can really put it the right language. Certainly I take care of my engineers at all time.

Q. You don't care any more that— A. Oh, yes, I do. The records show that.

Q. If your members were working and if there was very little unemployment in your Union, why should you terminate this strike at their expense? A. I wasn't trying to terminate the strike—I was trying to terminate the

strike under the conditions what they were offered to them by the contractors. With the small difference of opinion, why not settle it? I was going to go to arbitration, too. We didn't have to give anything away.

Q. You knew, Mr. Maloney, that there was already another [2018] agreement in the area, didn't you? A. That is what they said. I didn't see it.

Q. Didn't you see the agreement? A. No.

Q. Did you ask for it? A. No.

Q. Did you know how many contractors there were in the whole area? A. No.

Q. Did you know that there were about 650? A. No.

Q. Would you contest it? A. What?

Q. Didn't you make any inquiry? A. No.

Q. Didn't you know that about one hundred of the contractors who belonged to the associations were in this fight, and the other 550, approximately, had already signed up? Did you know that? A. No.

Q. Would it have made any difference? A. In fact, I didn't think the association had that kind of membership, to begin with.

Q. Would it have made any difference to you if you had [2019] known those facts? A. It probably would.

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[2021] Q. Can you say that the arbitration, the results of the arbitration that you carried on recently through your supervisor got you more than what they had in the independent contract? A. That's right.

Q. In what respect? A. Both in respect for the wages and in back pay and conditions, in my opinion.

Q. And how much more did you get with respect to the wages? A. Well, they had only—they made a difference between thirty to forty cents an hour in the helpers, in the apprentices, I should say, and they got forty cents an hour flat in the arbitration for the contractors—for the main engineers, and they got back pay to May 1. And I am satis- [2022] fied if you hadn't of gave the back pay away we would have gotten more than May 1, too.

I don't know who gave it away, but somebody gave it away.

Q. Now, you say you got thirty cents and so on? A. We got forty cents.

Q. Forty cents. Are you trying to tell me now that that is more than what the Union had already enjoyed under the contract with the independents? A. That is the information I got.

Q. Well, what information did you get about the wage rates in the original contract, in the contract with the independents? A. I didn't see the contract. I didn't see the agreement.

Q. What was told to you? A. They told me they had only thirty cents increase for the independents, for the helpers, and thirty-nine cents for the engineers. We got forty cents across the board.

Q. So your information was that you got more in your contract now— A. That's right.

Q. —than what the independents'— A. That's right.

Q. —contract showed? A. That's right.

[2023] Q. Now, you say that somebody gave away— A. Put on the twenty cents we got this year, too, without a strike, while you are talking about it.

Q. That was sort of after you got prodded a little bit, wasn't it, Mr. Maloney? A. No. nobody prodded me. That is what you think, and that is what they told in their meetings around here, they prodded. Nobody prodded there, because we had a deal.

Q. What kind of a deal did you have? A. We had a deal we would get as much as anybody got in the City of Philadelphia.

Q. What was the deal, and who with? A. I think Mr. Wharton made it with the contractors. When you talk about prodding, you are patting yourself on the back.

Q. Did you make the deal? A. No, but I understand Mr. Wharton did.

Q. What was the deal? A. That they would get the same rate of pay anybody else got.

Q. When was that deal made? A. Along about May 1.

Q. Why didn't you get it when the others got it? A. For the simple reason we wanted to wait and see what [2024] happened to everybody else.

Q. Did you get the same deal for all of your members? A. Yes, I understand we did.

Q. The upstate boys, too? A. Yes, I understand they got that, too.

Q. Are you sure? A. Well, I tell you my understanding.

Q. Did you have anything to do with all of these things? A. No, no, no. What the hell, I got enough to do without interfering with a Local Union—to make a wage scale for the Local Union.

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[2025] Q. You said something before about the back pay demand. A. Yes.

Q. There was a demand for back pay in the last strike, wasn't there? A. That's right.

Q. And you said that was given away. [2026] A. That's right.

Q. Who gave it away? A. You.

Q. I gave it away? A. Yes. That is the information I got.

Q. Who gave you that information A. Well, I believe a gentleman by the name of Mr. Rhoads gave me that information.

Q. And did you want to give it away—you didn't want to give it away? A. No., I didn't want to give it away, and I know if it hadn't been given away—

Q. Yes. A. —that we would have got considerably more back pay, too. I am satisfied of that.

Q. Did your feel that that demand for back pay was justified? A. I did in a certain extent, certainly, I did.

Q. Why? A. Because I thought the men were entitled to it.

Q. Why? A. Because some of the other fellows were paying it, and they should get it. On account of the in-

junction I thought they were entitled to it. That was the one redeeming feature that I wanted to stick with them on.

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[2028] Q. Now, were you approached by any of the contractors in connection with the strike that started in May of 1952?

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[2029] A. Just what do you mean by that?

Q. Did any of the contractors or their representatives communicate with you in any connection regarding that strike? A. They never consulted with me until about two weeks before the strike, I should say, when I met Mr. Halloran. He come into my office.

Q. Two weeks before the strike? A. No, two weeks before the strike ended. I should judge two weeks. I am only guessing at that.

Q. Well, go ahead, tell us what happened and who was involved. A. He came into my office.

Q. Halloran? A. Yes.

Q. Alone? A. No. He had a fellow bring him and introduce him.

Q. Who was the fellow? A. Mr. McGrath, Howard McGrath.

Q. Did Howard McGrath ever communicate with you prior to that time? [2030] A. No, he didn't.

Q. And you didn't know he was coming in to see you? A. I knew he was coming in, but not what about.

Q. Did Howard McGrath need an introduction to you? Had you known him before that time? A. Yes.

Q. And did anyone else call you? A. Yes.

Q. Who was it? A. George Meany.

Q. Why did he call you? A. He called me and wanted to know if I would meet him.

Q. Did you ask him what it was all about? A. Yes. He didn't tell me over the phone what it was about. He said, "Will you meet him?"

I said, "Certainly, let him come in." I said, "Inci-

dentally, I will be in Washington in a couple of days, if he wants to wait."

He said no.

I said, "All right, let him come in."

Q. And what else did Meany say? A. That is all he said. He didn't say any more.

Q. All right. You said McGrath and Halloran came in to see you together? [2031] A. That's right.

Q. Is that the first time you ever saw the two together? A. The first time I ever saw Halloran.

Q. McGrath? A. No.

Q. I meant in connection with this controversy. A. Oh. In fact, I didn't know what they wanted when they come in.

Q. And what was the first time you talked to them about this controversy? A. Absolutely. The first time I ever met Halloran.

Q. This was in your office in Washington? A. In my office in Chicago.

Q. Tell us what happened? A. Well, he just come in. McGrath come in and says, "Here is a man, a contractor from Philadelphia, he wants to talk to you." He introduced me to him, the name of Halloran. When he said Halloran, I knew his connection, because in talking to Underwood and McDonald they had used the name Halloran, that Halloran had to get out of there, they couldn't do nothing with him at all.

So he sat down and I said, "What is on your mind?"

He said, "I would like to talk to you about [2032] that situation."

I said, "Listen here, there is no use talking to me—" In the meantime, Mr. McGrath left the room. I said, "There is no use your coming in here to talk to me." I said, "I gather from my men—" That was Underwood and McDonald—"that you won't sit down and arbitrate anything, you are just stubborn about this damn thing, and you don't do anything about it. So what is the use bothering me?"

So then he said he would be willing to sit down and arbitrate, and he wanted to get it settled, and he wanted to arbitrate it, just absolutely opposite to what they told me, and they wouldn't arbitrate and sit down, and they got in an argument and everything about it.

I said, "This is just contradictory to the information I got." I wasn't very polite to him, because I didn't have any faith in him, what these people told me. I said, "You can't have a meeting?"

He said, "No, I can't meet them."

I said, "All right, I will see about that, see who is wrong here in this case."

So I called Carter in Newark.

Q. Halloran said he can't meet them? A. Halloran said he can't meet them.

Q. Go ahead. [2033] A. And I called Carter in Newark and I told Carter to go in—first I told him to call Underwood, and then I told him to call Halloran and take them up to a room in some hotel here in Philadelphia and see if they couldn't adjust it between themselves. So he tells me afterwards that he called the both of them, and Halloran showed up alone at the hotel—I don't know what hotel it is, Underwood will tell you that. I don't know. And when Underwood showed up, he had the Executive Board with him, and then it wound up into another free for all. In other words, so Carter told me. And, of course, I don't like to quote the man—he is dead—but Carter told me, he said, "Underwood don't want to settle it, Bill. He don't want to settle it."

I said, "Well, now, we will see whether he does or not, see."

So after that meeting then I got Underwood on the phone, and two or three days later, I think it was, and he could tell you better than that. I got him on the phone and he said, "Well, now, wait until I come in and see you and tell you what happened."

So he come into Chicago to see me.

MR. WOLF: You mean Underwood?

THE WITNESS: Underwood. And he sat down and [2034] started to tell me all about it. I said. "That is not the story I get." I said, "Let's get the story right."

He said, "You can bring anybody else in you want to."

So I called Carter on the phone, and then we adjourned that day, and went into the next day, and Carter was there the next day, and it was worse with Carter in there than it was by myself, because they differed altogether in opinion of what happened, and I am trying to get it adjusted.

So then I thought I will get a hold of the contractor, and I got a hold of the contractor on the phone—or I didn't get him on the phone. The office get him on the phone. And we come to find out he was out in the airport ready to come out here anyway. He was there the next morning. Well, we had two days of arguing, trying to get the job settled.

First it started on the work. Then we got it down to four little machines one day, and it looked like this thing will go off with a bang and everything, so Underwood come back the next day and he said, "We are interested in the Welfare Fund. We got to have the Welfare Fund adjusted." There was two different Welfare Funds.

And I said to Halloran, "What are you going to do with this Welfare Fund? It belongs to the men."

[2035] Q. What about it? A. So, or words to this effect. Anyway, the settlement was that they would withdraw both suits they were talking about—withdraw both suits, go back home, and amalgamate the two Welfare Funds into one, and put it into—in fact, he agreed to take his Welfare Fund and put it into the one over here—I don't know what bank it was, Broad Street Bank, Broad Bank, I don't know.

Anyway, the other Fund. We had the independent fund, and amalgamate it with that, and that is all there would be to it.

So I said, "Well, now, fellows, here: Why don't you go back to Philadelphia and settle this thing?"

He said, "We will."

So they went back that day and they had the meeting the next day, and it broke up into an argument again. And then I wired—I don't know whether I wired Underwood or called him, and told him that, to settle the strike and going to arbitrate the four little points in this thing was all right, there wasn't enough difference about it to keep on tying up the town on that small amount of work and small amount of question about the arbitration, go into arbitration on that. I said, "You know the Welfare Fund is all settled. You don't have any other kick about that." So I said, "How about getting into a meeting and [2036] settle that?"

The next thing I got from Underwood for to send me — meantime I left Chicago and come to Washington. When I got to Washington, I don't know whether I got a telegram or a phone call from him, telling me to define the four questions that was in dispute. And I sent him a telegram to that effect, and it had no more effect than if I said anything.

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[2038] Q. What instructions did you give Carter when you called [2039] Carter at the time Halloran and McGrath came in to see you? A. To see if he couldn't get them both together and settle the dispute.

Q. Is that all you told him? A. Yes, that's all I told him.

Q. Did you tell him to write a contract himself if he couldn't settle the dispute? A. I didn't tell him anything of the kind.

Q. You told him only to go in and see if he couldn't

get them together? A. That's right, and sit there and see if he couldn't get them two together. Of course, he might have used any pressure he could to try to do it.

Q. But your statement is you didn't tell him to do anything beyond that? A. That's right. I told him I was very interested in getting the strike settled, and his answer to me was that nobody could do anything with Underwood, that he was the most stubborn man he met in his life. During the discussion with the contractor, I accused them both of being stubborn.

Q. You say Halloran was on a plane before you invited him to that conference in Chicago between you and Carter? A. I didn't say he was on a plane. I understand they caught him at the airport. Let me explain this to you now [2040] so you will know. While we were talking about the thing we decided to get a hold of Halloran and bring him in and see if we could get it adjusted. That was Carter and Underwood and myself then. The three of us. So we called Halloran's office, and Halloran's secretary told the operator that he was at the airport. And I think Carter got him at the airport. It might have been me, I don't know, but I think it was Carter.

Q. He was already on his way to your office? A. No, no, he was down at the airport, and he was going to fly to Chicago, so he had a reservation, and he come in there. I don't know whether we met him that afternoon or the next morning, I am not sure.

Q. He knew you were meeting even before you invited him or told him anything about it? A. Evidently he did, yes.

Q. Do you know how he knew about it? A. No, I didn't tell him.

Q. Who could have told him? A. I don't know.

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[2041] Q. Did you ever have any further discussions with McGrath? A. Never talked to him since.

Q. Never talked to him since that? A. No time.

Q. You mean he only came in for a few minutes, introduced Halloran, and left? A. Well, he stayed out in the outer office. I got an office—my office is the end of the suite in Local 569, and he walked out in the other offices. He didn't enter into the discussion either one way or the other.

Q. And didn't even hear what was going on? [2042] A. I didn't think he did.

Q. And that is the last you ever heard of him? A. The last he appeared in the case until you put him in the order.

Q. But he had nothing further to do with the case beyond that? A. That's right.

Q. Did Meany ever try to get in touch with you thereafter? A. No. They asked me about the strike, and I talked to them, and they passed a resolution, as you know. They passed it themselves. I don't have anything to do with that Executive Board. And they passed the resolution and handed it to me.

Q. And that was after you invoked that order? A. That is after you started the lawsuit.

Q. And that is the only information they had— A. Well, not after I invoked the order. That was when you started the lawsuit.

Q. That is after you invoked the order ordering the men to return to work? A. That's right. That is August 11 order, yes.

Q. And did the Executive Board that acted on this resolution hear both sides of the story? A. Well, they asked me what the situation was and I told them, as far as I know, and they passed the resolution.

[2043] Q. And they didn't get any other picture? A. No.

Q. Did you ask them to pass that resolution? A. No. I don't think I asked them to pass the resolution. I told them my side of the question and they passed the resolution themselves. You know, them fellows, you don't ask them to pass them resolutions.

Q. Who brought the subject up? A. It was a common subject around the hotel. The papers, it was in the papers. In fact, everybody in town knew about it, I think, before I did.

Q. How often did you see Halloran? After that one meeting in Chicago did you see Halloran thereafter? A. Just what do you mean? I have met Halloran in—well, probably I have seen him two or three times.

Q. When did you see him after that first meeting? A. After the first meeting?

Q. Yes. A. Well, I seen him at the second meeting when Underwood and Carter and I was there.

Q. Yes. When beyond that? A. I think—I seen him in Atlantic City when I was down there.

Q. What was the occasion for that? [2044] A. Just he was standing around the lobby, just see him.

Q. Did he just happen to be there? A. I don't know. I think he has got a summer place down there, if I am not mistaken.

Q. What hotel was it? A. I was at the Ambassador.

Q. And did he come over to see you about anything special? A. No, he didn't come over to see me about nothing special.

Q. Did you talk to him? A. Yes.

Q. What did you talk about? A. Asked him how he was, asked him how everything was going, something like that. There wasn't much to talk about. I didn't have anything in common. I couldn't get the men back to work at that particular time.

Q. And that is all you talked about? A. That's right.

Q. Didn't he bring to you attention at that time the letter McDonald had sent out to the contractors? A. No. That come through the mail to me. But he had a copy of it.

Q. Who sent it to you? A. I don't know. No return address. Just in an envelope addressed to me.

[2045] Q. When did you get it? A. About the day after you wrote it.

Q. Do you know what day I wrote it? A. Yes, you wrote that letter about—

Q. I wrote it? A. Yes, that is what Mr. McDonald says.

Q. Who signed it? A. McDonald signed it, but you wrote it, he says. Oh, I would say a day or so. Whatever it takes the mail to go from Philadelphia to Atlantic City. I don't know how long. It might take a day, it might take two days after you wrote it.

Q. McDonald told you I wrote it? A. Yes.

Q. Tell me about that. How did he tell you I came to write it? A. How did you come to write it? He said that he got—Roy Underwood come to him and asked him about, something about drawing up a letter, and he said he drawed up a paragraph to see if he could adjust the differences with the contractors. He took the—Roy, you have to ask him the details now on this. Roy asked him—I should call him Mr. Underwood, I know. He took the letters off of him and then took it over to you and you revised it and sent it back to him and said, "Here is the kind of letter you ought to send [2046] out." And he signed it and sent it out. Now, that is the substance.

Q. When did he tell you that story? A. When did he tell you that story?

Q. Yes. A. He told me that story in, I would say at the A. F. of L. convention in New York in September.

Q. That was the time Roy was being brought up on charges? A. No, after that.

Q. You mean after Roy was suspended? A. Yes, after the hearing down there, yes.

Q. How come he didn't tell you before? A. Well, I didn't see him, to tell you the truth about the matter.

Q. Well, you saw him at the convention, didn't you? A. Yes, but he didn't tell me that until—there was so many people around me, he didn't tell me until after the thing was over.

Q. You saw him a good many times, didn't you?

A. No. I saw him around the lobby, but you couldn't talk to him. I wasn't even interested in talking to him.

Q. And you say you got it the day after it was postmarked, or dated?

MR. WOLF: No, he didn't say that. He said [2047] several times he got it whatever the mail takes to get to Atlantic City.

By MR. FREEDMAN:

Q. When did you get it with respect to the date it was dated? A. I should say, I said a couple of days—I am taking the supposition—you asked me when you wrote it, I don't know. I said I suppose a couple of days after you wrote it.

Q. And Halloran didn't talk to you about that letter at all in Atlantic City? A. I don't think he ever mentioned it to me. But my attorney talked to me about it.

Q. Which attorney? A. Right here.

Q. Mr. Thomas? A. Yes.

Q. When did he talk to you about it? A. About the time we got the letter.

Q. In Atlantic City? A. Yes.

Q. What upset you about the letter? A. What upset me about the letter?

Q. Yes. A. After reading the court case about the time I got the [2048] letter, I knew the letter was a part and parcel of the case, and I knew that was a prearranged plan that worked right into the case.

Q. When you got that letter you had not issued your order terminating the strike, had you? A. Oh, yes. Yes, yes, I terminated the strike two or three days before that, I think. I know I did. That was August 11. I got the letter between August 11 and the time you filed the suit. I got the letter in Atlantic City.

Q. Yes. A. And the letter of August 11, I wasn't in Atlantic City. I was in Washington, if my memory serves me right.

Q. When did you issue your order terminating the

strike? A. On August 11, the date of it, and I had it delivered in person by Mr. Wharton.

Q. Where did you issue it from, Atlantic City? A. No, I think I issued it from—of course, it might have been Atlantic City, but I think I issued it from Washington. I know that I handed him the letter in Philadelphia and told him to take—

Q. You mean Wharton? A. Wharton. I was in Philadelphia I think, because when I sent for him to come down to the train, and I met him, and told him to deliver it over to the office right then. I [2049] didn't want any mistake about it. Looking over this record here—is it all right to go ahead?

Q. Do you want to answer? A. I want to correct a couple of statements, is all.

MR. WOLFE: Well, if it is germane to the answers.

By MR. FREEDMAN:

Q. If you feel you want to qualify anything you have said, it is perfectly all right with me. Let the record show that Mr. Maloney has been examining the records which have been given to him by Mr. Thomas, and if you want to make any qualifications, you go right ahead. A. The only thing is that it was on August 7 that McDonald's letter was written, and it was on August 11 when I put the—and put the order in. And it was September 18, the day they tried Mr. Underwood here, the Executive Board tried him. And when I said the fifteenth when he gave me that information, it was sometime after the trial, I don't know what day it was.

Q. Now, you saw Halloran in your hotel in Atlantic City after McDonald sent his letter out, didn't you? A. Yes, I did. I must have.

Q. And you say you did not talk about that letter at all? A. No, outside the fact—I probably might have said to him, "I see McDonald sent a letter out." And he said,

"Yes, [2050] I saw it." And he said, "Want a copy?" I says, "I have got one." That is about the whole thing.

Q. And how much later than that did you issue your order terminating the strike? A. Well, I am under the impression, Mr. Freedman, your letter was dated the seventh.

Q. Don't call it my letter, Mr. Maloney. Call it Mr. McDonald's letter. He signed it, and you know that. A. Yes, I know he signed it. Then all right, we will call it McDonald's letter. I like to get the record straight.

Q. I would, too. I don't know who said it, but it is absolutely false, and you know it is false. A. I don't know it is false. I am telling you the information I got from McDonald.

Q. You know McDonald signed the letter. A. Yes. I don't want to get in an argument with you. I am trying to tell you what he told me. I told you that before.

Q. Yes, I listened to your explanation. When you call it the letter, you call it McDonald's letter, because he sent it. When I sign a letter, you can characterize it as mine.

THE COURT: Pick up at the witness.

[2051] THE WITNESS: I am telling you what the fellow told me. I never saw you dictate it.

By MR. FREEDMAN:

Q. You have said it five or six times. All right. Let us just stick to the facts here and answer the questions. Was it two or three days after McDonald's letter that you issued your order of supervision? Is that about what I gather from your prior testimony? A. Well, your guess of that is about the same as—

Q. Would you say that is pretty accurate? A. Read that question again. I am thinking of something else.

(The question was repeated by the reporter.)

By MR. FREEDMAN:

Q. I meant order terminating the strike. I did not mean supervision. A. Well, I should judge about that time.

Q. Now, did Mr. Halloran see you on any other occasions than the ones that you have mentioned here? A. Yes, I met him last April, I believe.

Q. And where was it? A. In Washington.

Q. Sir? A. Washington.

Q. He came down to see you? [2052] A. I don't think, he didn't come down to see me, no. He happened to be in Washington and come over to the office.

Q. What was the occasion for that visit? A. He came in to see me to say hello, I guess, more than anything else. I know he didn't want me. He didn't ask for me, anyway. And if you know Halloran, he will always ask for something if he wants it. And he just said hello. I guess that is about all.

Q. Did you see him between that occasion and the last one you mentioned? A. I don't think I did.

Q. Did you see him in New York? A. No, he wasn't in New York, to my knowledge.

Q. Wasn't he in New York on the occasion that Roy— A. I never talked to him, if he was.

Q. Didn't you know he was there? A. No, sir. He might have been in New York, but he didn't talk to me. That is for sure.

Q. You know he was in the hotel where you were holding your meeting? A. That may be true, but he didn't talk to me.

Q. Didn't Hunter Wharton tell you that he was there? A. No, sir.

Q. And he didn't talk to you at all? [2053] A. No, sir.

Q. And you don't know of any other occasions when Halloran got together with you? A. I can't remember any at all.

Q. Were there any other occasions when Halloran communicated with you by the telephone? A. This is just trying to track a memory thing on this. I don't know whether I talked to him over this last raise with the contractors or not over the phone.

Q. When was that? A. I know that Wharton talked to him, and Wharton probably told me some of the things he said, and I was just wondering whether I talked to him or not.

Q. When was that? A. Oh, that was when they were consummating the agreement, this last twenty-cent raise.

Q. That was very recently? A. Well, when did they get the raise? They got the raise in June, wasn't it?

Q. How long before the raise did you talk to him? A. Oh, sometime—I don't know whether I talked to him or not.

Q. Well, other than that, was there any occasion when you talked to him on the telephone. [2054] A. No, no, no.

Q. He did not call you during the time that the strike was on and before you issued your order of supervision other than those occasions that you mentioned? A. Call me on the phone? Let me see now. In fact, if you are talking about this situation—after he left Chicago he did—I believe I did talk to him. I don't know whether he called me or I called him—and asked him what was the matter, why didn't they get together. And I think at that time he told me that Roy walked out on him or wouldn't talk to him, or the Committee was there and they couldn't do anything with him at all, couldn't settle anything. Now, whether he called him or whether I called him to confirm that, or whether he called me, I don't know.

Q. Now, you sent a telegram stating your views to be put up to the members, didn't you? A. Yes.

Q. And there was a membership meeting held pursuant to your request, wasn't there? A. That's right.

Q. That was immediately prior to the time you issued your order to return the men to work? A. What do you mean?

Q. Well, within a short time. Approximately a week. [2055] A. Well—

Q. Four or five days. A. You might be right, yes.

Q. Now, you had Hunter Wharton attend that meeting, didn't you? A. That's right.

Q. And your telegram and your full recommendations were transmitted to the membership, isn't that correct? A. Well, I think that is the report I got, yes.

Q. And did Wharton say that he was treated in any but a courteous and any other way? A. Wharton never made any complaint at all.

Q. And he was given every opportunity to speak? A. I told him not to speak. I didn't send him down there for that purpose of making a speech. I sent him down there because, as I told you before, there was so many different reports that I have of the meeting, this was going on, and this, I sent him down there for the express purpose of not making a talk. And he told me he told that to Mr. Underwood, but Mr. Underwood insisted on him talking anyway.

Q. To state your views to the membership. A. Yes, but I didn't give him any orders. I told him to sit down and observe what was going on and let me know what was happening at the meeting.

[2056] Q. But at any rate he was given an opportunity to state to the membership what your views were? A. He didn't have any authority, and I didn't give it to him. Underwood forced that to him.

Q. But he did it? A. I understand he talked.

Q. You also know McDonald stated your views to the membership and urged them to accept them, isn't that correct? A. No, that is not correct. My recollection, it is not correct. My information is that McDonald went off into a little tangent talking about—I mean, on different subjects, I don't know what it was. He told me at the time. And talked about several things, and then finally wound up and did ask them to accept it, I believe.

Q. But he did ask the membership to accept your recommendations? A. I think that is the information I got. I couldn't swear to that, because I got it secondhand.

Q. But from the information you had, that was the fact? A. That is the way it looked, yes.

Q. And yet the membership voted not to accept your demands? A. I don't know what they done.

Q. Didn't Wharton report to you? A. No.

[2057] Q. He didn't report to you— A. He didn't tell me what they done, no.

Q. He was there. A. Well, he didn't report. If he was there, he didn't report it. McDonald didn't, either.

Q. Didn't you know what the membership did? A. I had an idea that they didn't accept the telegram, because they didn't go back to work. I didn't have to be told anything.

Q. Well, didn't you feel that they had a right to reject your request? A. Sure they did. Why don't you tell them what the telegram was?

Q. Why don't I tell who? A. It was a question of going to arbitration for these four little points they had. It wasn't a question of go back to work and settle it by arbitration.

Q. You concede the membership had a right to do what they did? A. Yes, they done it, yes. I still think I had the right to do what I had to do.

Q. Did the attorney for any of the contractors associations get in touch with you at any time during that period? A. Didn't talk to me.

[2058] Q. Did he talk to anybody in your office that you know of? A. No.

Q. Or heard about? A. Nobody said anything to me, if they did. You are not trying to leave the impression here that I was with the contractors in this dispute, are you?

Q. Mr. Maloney, I am here to ask you questions to find out what the facts are. A. That is all right, I am just trying to find out myself.

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[2059] Q. You had known McGrath prior to the time he came into your office with Halloran, didn't you? A. I had met him before, yes.

Q. You didn't talk to McGrath at all before he came into [2060] the office? A. No.

Q. Why did he need an introduction from Meany to come in? A. I don't think he felt he knew me well enough.

Q. But you said you had met him before? A. Yes.

Q. Wouldn't you have spoken to him if he had come in alone? A. Yes, I think I would.

Q. Had you ever had any business dealings with McGrath before this time? A. Not a bit. Outside of—now, just say this: That he was United States senator when he had the labor league for political education, and he went over and made a talk one day at one luncheon, and we were trying to line up the senators that passed that bill to revamp the Taft-Hartley Law. We lost it by one vote. I guess you know all about that. I think that is where I first met him.

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[2061] Q. Did you regard this strike as a serious situation? A. That I did.

Q. Did you ever take it up with your Executive Board? A. I don't think they had an Executive Board meeting to take it up at that time.

Q. You had the power to call one, didn't you? A. Yes, but I didn't.

Q. Do you ever consult the Executive Board before taking a local over? A. Sometimes I do and sometimes I don't. Sometimes I put it up to them and let them make the decision.

Q. You knew that what you were going to do here was pretty important and that would have a lot of after affects? A. I was positive of that.

Q. Didn't you consider under those circumstances the advice and counsel of your Executive Board might be helpful? A. That's right, but I didn't consult them.

Q. Why? A. Because I didn't think it was necessary. I had that [2062] power myself.

Q. The strike was going on for three months, wasn't it? A. Approximately.

Q. Over three months. A. Over three months, I guess, yes.

Q. Did your Executive Board meet at any time during that period? A. I believe they did meet in about the last of May.

Q. Last of May? A. About in that period there. I don't know. The record will show that. Do you want me to look up the record for you?

Q. If you want. A. No. If you want it. That is not me.

Q. Yes, I would like you to look it up. A. O.K., O.K. From the 20th to 22nd of May.

Q. Did you discuss at that meeting anything about the strike? A. No, I didn't. Outside of talking to—I discussed it with the members of the Building Trades Council that were in Boston at that time.

Q. I mean your own Executive Board. A. No, I didn't talk to them about it.

Q. You never made any report to them at all? [2063] A. No, not on that. If I thought it was going to take the turn it did, I surely would.

Q. Mr. Maloney, what is your salary from the Union? A. Thirty thousand dollars a year.

Q. Thirty thousand a year. Are there any other compensations that you get from the Union? A. Get my expenses.

Q. What are they? A. Whatever they amount to.

Q. How much do they amount to? A. Different amounts.

Q. How much were they last year? A. How much were they last year?

Q. Yes. A. I can't tell you that, but I can tell you what they were the year before.

Q. Why can't you tell me about last year? 1952, that is. A. I haven't got the record of it.

Q. It is filed, isn't it? A. I can't remember the amount. I would have to go and look it up.

Q. Don't you even remember approximately? A. No. How can I do that? You don't know what the railroad fare is: Railroad fare from here to Chicago and a hotel [2064] around this town will run fifty, sixty dollars a day.

Q. What was it for 1951? A. 1951 was $13,300, I believe.

Q. Was it more or less in 1952? A. It might have been more or less in 1952, it all depends on what the travel rates are. I would say that 1952 it probably might have been a little higher. Hotel rates are up and railroad fares are up.

Q. And you have no idea at all how much your expenses were in 1952? A. I am telling you about what they were, approximately, for 1951. They might be the same for 1952 and they might have been a little bit more and they might have been a little bit less.

Q. Is there any other compensation you get from the Union? A. What do you mean, what other compensation?

Q. Any other monies. A. Yes, I get other money from the Union.

Q. What are those monies? A. I get money for being a member of the General Executive Board.

Q. What do you get for that? A. It runs about five thousand dollars.

Q. A year? [2065] A. Yes.

Q. Anything else? Do any expenses go along with that? A. No expenses with that, not for the president.

Q. Is there any other compensation you get from the Union? A. Not that I know right now.

Q. You can't recall of any other compensations you get? A. No.

Q. Now, do you make any other income other than that which you receive from the Union? A. Yes.

Q. From what source? A. From different sources. I have different income property that I get an income from.

Q. What was your reported income in 1952? A. I think it is a little bit out of line.

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[2067] Q. What other income did you have from your salary and income from the Union last year? A. On the advice of counsel, I won't answer.

Q. From whom did you obtain any monies other than from the Union during the years 1951 and 1952? A. Nobody, only my income.

Q. What income? A. My other income.

Q. From what sources? A. I told you, it was from other sources.

Q. What other sources? A. Investments, and one thing and another.

[2068] Q. What investments do you have from which you get income? A. I won't answer it, on advice of counsel.

Q. Where are the investments located? A. Chicago.

Q. Are they stocks and bonds? A. Some of them.

Q. Property? A. Some.

Q. Do you hold those properties alone? A. Absolutely.

Q. What properties are they?

THE COURT: That was objected to.

A. I will take the attorney's advice.

Q. What about stocks? What stocks do you own? A. I will take the attorney's advice.

Q. You won't state what stocks you own? A. I said I would take the attorney's advice. He told me it is not necessary to answer it, and I am taking his advice.

Q. I ask that you produce your income tax returns—where are they located now, Mr. Maloney? A. That is my private business.

[2069] MR. WOLFE: Just a moment, please.

As Your Honor may recall, a petition was filed on that subject, and Your Honor dealt with it. So that I object to any questions on that.

THE COURT: Yes. I examined the income tax return of Mr. Maloney, with supporting documents, and the record of an examination by the Internal Rev-

enue Service. There was nothing in there that would indicate other than normal ordinary income, and I think I so stated in an order. Is that not correct?

MR. WOLFE: That is correct. Your Honor entered an order.

MR. FREEDMAN: Your Honor did not enter any order, I don't believe. I may be wrong, but I have no recollection that Your Honor entered any order.

MR. WOLFE: It depends on how you interpret the word "order." I am sure my recollection—

THE COURT: Well, gentlemen, I have file paper No. 67 in front of me, "Order Sur Request For Production Of Documents," filed January 12, 1956:

"And now, to wit, this 12th day of January, 1956, the defendant William E. Maloney, pursuant to an order contained in the record of the pretrial conference held on December 13, 1955, having produced, [2070] through his attorney and accountant, for the inspection of the court his copy of United States Individual Income Tax Return for himself and his wife for the calendar year 1952, together with photostatic copy of the Audit Report of the Treasury Department thereon, and there appearing to the court no information therein in connection with the receipt of income, expenditures made, or acquisition of assets, in the year 1952, which might lead to the discovery of any evidence relevant to the issues involved in the instant actions, it is Ordered, Adjudged and Decreed that plaintiffs' motion for the production of defendant William E. Maloney's income tax return for the year 1952 be and it is hereby denied.

"By the Court, Thomas J. Clary, J."

MR. FREEDMAN: Then I assume I won't have to press for any exception at this point. Your Honor is overruling my asking the question—

THE COURT: To the extent that any questions

here are encompassed within the purview of that order, yes. I will sustain objections to anything in connection with the income tax return.

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[2071] Q. Who manages your own private business, Mr. Maloney? A. A fellow named Maloney.

Q. You mean you take care of all of your private business? A. Yes.

Q. How many properties have you got?

THE COURT: That is objected to and the objection is sustained.

Q. Do you have a pension coming to you from the Union? A. Yes.

Q. What is the pension? [2072] A. I don't know what it will be. I have never taken it.

Q. You mean you are not taking it yet? A. No.

Q. But you will be eligible for it, won't you? A. I have been eligible for it for ten years.

Q. You mean if you retire? A. Yes.

Q. And you don't know how much the pension is? A. No.

Q. Is that a pension provided by the International Union? A. That's right, for all their employees.

Q. Was there any other income that you received during the years 1951 and 1952 other than what you received from the Union and from properties and stocks and bonds? A. No.

Q. None at all? A. Not a cent.

Q. Do you remember what income you reported for the year 1951?

MR. WOLFE: That was objected to, if Your Honor please.

THE COURT: I will sustain the objection.

MR. FREEMAN: The next question was, "Do you [2073] remember what income you reported for the year 1952?"

MR. WOLFE: That is objected to, also.

THE COURT: In view of having examined the returns, I will sustain the objection.

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Q. Is there anyone who assists you in the management of your own personal affairs? A. No. Unless I need an attorney for some case or something, I hire one.

Q. And you do not use anyone to assist you in connection with your personal finances? A. No, no, no.

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[2076] Q. You said before that the first time you saw Halloran was about two weeks before you invoked supervision, is that correct? A. That's right, approximately. I wouldn't say it was two weeks to the day, or ten days, or three weeks.

Q. Then you heard his story, and it was after that that you for the first time got in touch with Carter and brought him into these proceedings? A. Yes, I got a hold of Carter and sent him down here for [2077] to see if he couldn't adjust the matter and get them together.

Q. But at that time you didn't call in Underwood to meet with you and Halloran, did you? A. Not that day, no.

Q. You heard Halloran's story, but you didn't call in Underwood to have Halloran confront him with his version? A. I had heard Underwood's story before, as I told you, and when Halloran told me the story it was just opposite from what Underwood told me, so then I called Carter to get the two of them together to get the story straight.

Q. Why didn't you call in Underwood and have a meeting? A. Because I wanted somebody down—I had something else to do, and I sent Carter in here for to try to get it adjusted. He was a next door neighbor, and I thought he would work pretty good in getting it settled.

Q. What was the matter with McDonald? McDonald was in the area. Why didn't you call him? A. I didn't want him.

Q. Why not? A. Because I wasn't satisfied with him.

Q. Why? A. Haven't I got a reason of my own without telling you?

Q. I have asked the reason. [2078] A. I have my own opinion. I thought maybe Carter could do better.

Q. McDonald was higher in rank than Carter. A. But I thought Carter would make a better man to get it settled.

Q. Why? A. Because I had more confidence in him. I thought he would be the proper man to settle the proposition.

Q. Why didn't you invite in McDonald? He was an International representative, wasn't he? A. I thought Carter was a better man.

Q. But McDonald was assigned by— A. But I thought Carter was a better man to settle it.

Q. Wasn't that a reflection on McDonald? A. You can make any interpretation you want to. I thought Carter was the best man to try to settle it.

Q. What objection did you have to having the Executive Board of the local present at the meeting with Halloran? A. I didn't have any objection at all, but I thought if the two of them could get together—it was a personal fight, the way I took it, and I thought maybe Carter could get them together to get it adjusted, which we so often do in the labor movement and every place else.

Q. You know that Underwood couldn't act without his [2079] Executive Board. A. Well, I knew that, but if I could settle the difference between him and Underwood so they would agree to go along, I didn't think there would be any trouble about the Executive Board.

Q. Well, in other words, you wanted to have it done without the Executive Board present? A. No, I wanted them to come to some understanding where they could get it down, like everything else is settled in the same line.

Q. You knew that the Executive Board were the designated representatives of the local and they had just as much to say about it as Underwood. What objection did you

or Carter have— A. Carter—I gave Carter orders to try to get Underwood and Halloran together alone to see if they couldn't adjust their difference between themselves. Then the two Boards could meet and probably could get together. Very simple. You know that is the regular procedure all over the country. Even procedure with the Secretary of State in handling Mr. Syngman Rhee.

Q. Your ideas and those of other people vary very substantially, Mr. Maloney. A. That is all right. Mine seem to be very successful. [2080] I run the Union.

Q. It depends on your point of view. A. Well, the record shows for itself.

Q. That is what I am talking about. A. Yes, that's right.

Q. Did you make any record of your instructions to Carter as to what you told him to do? A. No.

Q. Did you call him on the telephone in Halloran's presence? A. No.

Q. If he attempted to write a contract for the local, would you say that he was violating your instructions? A. Yes, I would say he was, if he attempted to do that.

Q. Didn't you know that he tried to do it? A. No, I don't know he tried to do it. I never seen any he tried to write up. I never seen any copy that he wrote up, either. Nobody else did, I think.

Q. Didn't you know that he went into session with the employers before he even talked to Underwood? A. No, I don't know that, either.

Q. Didn't you know that even after he was here a while he entered into some sort of an arrangement with the employers? [2081] A. I don't know that, either.

Q. It was told to you, wasn't it? A. No, it wasn't.

Q. You mean you didn't know it to this day? A. No.

Q. And this is the first time you have heard it? A. That's right. Unless you call calling up Halloran for to meet Underwood and meet him in the hotel, that is what you mean?

Q. No, that is not what I mean. A. Well, that is all right, then. The answer sticks.

Q. I am talking about terms and conditions and so on. A. No, I don't think it ever was discussed. I think that is just some—

Q. And you never saw anything like that at all? A. No, I did not. I don't think you ever did or anybody else sitting at this table ever did, either.

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[2082] A. No, I did not. I don't think you ever did or anybody else sitting at this table ever did, either.

Q. You make some awfully strong statements, Mr. Maloney. A. Well, that is the truth. That is my opinion.

Q. I think we will be able to show where the truth lies. A. All right.

Q. In no uncertain terms. A. All right.

Q. Now, did you see Carter at any time after that conference with him over the telephone other than the occasion in Chicago that you told us about? A. No, I didn't see him.

Q. Did he report to you from time to time? A. Yes, he talked to me over the phone, talked to me over the phone.

Q. Would you have discharged him had you known that he was trying to write a contract or draft the terms of a contract? [2083] A. I believe that I would have changed him to somebody else—put somebody else in there. It depends on the circumstances, of course, entirely.

Q. Do you remember McDonald's letter? A. What letter?

Q. The letter of August 7, I think it was. August 7 to the contractors. A. I read it. I don't remember it right at the time, but I read it.

Q. What was there about that letter that you especially objected to? A. I objected to him entering into an argument at that late date. As I say, I knew somebody wrote that letter for McDonald, and that wasn't McDon-

ald's letter, and I wanted to know what idea he had sending that out under his signature, somebody else's letter.

Q. Is that why you objected to it, then? A. That is what I objected to it then.

Q. Do you remember what the letter was trying to do? A. Yes, I know what the letter was trying to do.

Q. What was it trying to do? A. I didn't know at that particular time, but—

Q. What was the purpose of the letter? A. So that it would intervene in this lawsuit, so that it [2084] would be a part of the suit in Grim's court.

Q. Let us take the language of the letter. Do you remember what it said? A. No, I don't.

Q. Don't you remember it was an attempt to get together with the contractors? A. Something like that. The letter talks for itself.

Q. Did you have any objection to that? A. No, I had been trying to get them together.

Q. Why did you stop McDonald? A. Because I figured he wasn't any more good in this case for trying to settle it, and that is why I wanted to stop him. I made up my mind that I might as well kick him out of it altogether.

Q. When did you tell him that? A. I know I had no hopes of getting the matter settled as long as McDonald was in the picture at that particular moment.

Q. When did you decide that? A. I decided that a week or so before that, maybe two weeks before that. He wasn't any help to the International office in getting the things adjusted.

Q. Did you know that tentative appointments were being made to meet with contractors as the result of that letter? A. How would I know it?

[2085] Q. I am asking you: Did you know it? A. Nobody told me, no.

Q. Didn't Halloran tell you? A. No, he didn't.

Q. And you told McDonald not to take any further

action? A. That's right. I told him to get out of it altogether.

Q. When did you tell him that? A. Shortly after I got his letter.

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[2087] Q. What other locals do you have under supervision now?. A. Well, I got this one in Philadelphia, as you well know, and there is one in—one I am releasing in Syracuse, New York.

Q. Yes. A. One in Evansville, Indiana. You know the number of that one, I guess. Mr. Lovett's organization. One in Chicago, stationary local, I wouldn't say they were under supervision. Just take it off. They are not under supervision. We just take care of their finances. They elect their members.

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[2088] Q. What other locals? A. The one in Chattanooga, Tennessee.

Q. Where else? A. I don't know whether—there is one in Rochester, New York, or not. I am not sure whether that is under supervision or not.

Q. Yes. What else? A. That is all I can remember of, if I don't get into looking at the record.

Q. You don't have any down in the southern part of the [2089] country? A. No, not now.

Q. Southwestern part of the country? A. No, not now.

Q. These are the only ones you remember? A. Wait a minute. No. That's right. We haven't got any down there. I thought we had one in Mexico, but we have not. That is local autonomy.

Q. And these are the only ones— A. They are the only ones I can think of right now. There might be others.

Q. When you take a local under supervision, don't you keep them under your direct control? A. Well, that is what the constitution says, but we generally appoint a supervisor and let the supervisor operate it and let him report to the General Office. He operates it for the best

interests of the members, and if there is any kick from the members or anything like that, we immediately take it up with him to get it corrected.

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[2091] Q. When is the last time you made a check of the supervision in the Philadelphia local? A. Why, I look at the financial statements once in a while. You have seen them here yourself. See how they are getting along. I get a verbal report from the supervisor every once in a while, every week, how things are coming down here. And incidentally, three or four different telephone calls from different members around here every once in a while.

Q. Do you do it the same with all the other locals? A. Pretty near.

Q. And you still can't remember too well the locals that you actually have under supervision, even though you get these calls from them every week? A. That's right. You couldn't either, if you were in my position.

Q. I meant to ask you, Mr. Maloney: Did you accumulate these properties and these stocks and bonds that you talked about before, during the period that you have been president of the organization? A. No, I accumulated before.

Q. How long before? A. On advice of counsel I won't answer it.

Q. You had all of these properties that you have got today [2092] before you became president, and all the stocks and bonds? A. I refuse to answer, Mr. Freedman.

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Q. Mr. Maloney, can you tell me why Carter would continually call you about Local 542 prior to the time you talked to Halloran? A. Can I tell you why?

Q. Yes. A. I can only tell you that I surmise, if this is what you want to know.

Q. Did he give you any reason for it? A. No, he just said he had certain information, such and such was happening. I didn't ask him where he got the information, either.

Q. And it was all bad information, wasn't it? [2093] A. Not all of it.

Q. Was it in the form of a report that he was making to you? A. That's right, he called me up and let me know what was going on. I get reports from all over the United States sometimes from different locals.

Q. You mean from people not involved? A. Yes, not involved.

Q. Reports on a particular local? A. Yes.

Q. One agent will report on another local? A. Will tell me what happens lots of times.

Q. Regularly? A. I wouldn't say regularly. If something unusual happens, they tell you about it. What they think is the best interests for our International Union.

Q. Is there any other agent that you have got who reports on any other local than his own, any other representative? A. Oh, once in a while I got a phone call about different ones.

Q. Can you give me the names of any? A. No, I wouldn't give you the names if I could. I can't remember them, but if I did, I wouldn't tell you, Mr. Freedman, because it don't involve this case.

[2094] Q. Carter was connected with Joe Fay prior to the time that he went to jail, wasn't he? A. You go a long way. Yes, I think he was an officer of the local.

Q. And he was pretty closely associated with Fay, wasn't he? A. I wouldn't say that.

Q. What would you say? A. I would say that he was an officer of the local. That is about as far as he went.

Q. Was it under Fay? A. Fay was the business manager.

Q. What were his relations with Fay? A. I don't think they were too good.

Q. What were your relations with Fay? A. Not very good at all.

Q. Did you ever oppose him in the Union? A. Yes, sure, I opposed him in the Union. The International Union and every place else. I didn't agree with Fay.

Q. Did you take any measures to oust him? A. I did after he was convicted.

Q. But you know what was going on before he was convicted. A. How would I know it?

Q. Carter was in his local. [2095] A. Carter never told me. Get this straight, all the trouble Fay was in was before I was president. He didn't get convicted or anything after I was president. It was before I was president all the trouble that he was in happened.

Q. All of this business about Fay happened right in New Jersey, didn't it? A. Well, according to—I think maybe the records show that, yes. I don't know whether it was or not. You are asking me something I don't know.

Q. That was within the jurisdiction of Carter, wasn't it? A. Carter belonged to the local, yes.

Q. And yet did Carter ever tell you anything about Fay? A. I don't think he ever knew anything about him to tell me. He never told me anything about him.

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[2096] Q. Are there any other representatives of the Operating Engineers now who are either under indictment or under investigation by the Government or any state authority? A. Yes, I believe there is.

Q. Who? A. A couple in St. Louis.

Q. And what are you doing about those? A. I am doing like I do with everybody else: Until the court convicts them, I can't do anything about it. They say they are innocent, and the court says they are guilty. Just because they are indicted don't make them guilty. If they are tried and convicted, then they go out.

Q. Have you made any independent investigation of your own? A. Yes, a little bit.

Q. And are you taking any action in connection with that investigation? A. Well, I am trying to find out—the reports I get is just opposite from what the grand jury says.

Q. Has one of your representatives resigned recently in one of the jurisdictions? A. A representative resigned?

Q. Yes. A. I surely can't remember one. Maybe one slipped over [2097] my head. Tell me who it is or where it is at, and I will tell you.

Q. But you don't know of any right now? A. I can't tell you of any.

Q. And he hasn't been in to see you in the past month or so? A. No, nobody has been in to see me about resigning. Representative of what?

Q. One of the Local Unions. A. One of the Local Union representatives?

Q. Yes. A. No. I would say if he resigned, he probably got beat, he got beat by the membership. I think if you look it up real close, you will find that out. I don't know who you are talking about.

Q. How about the Long Island situation? A. What about it? That is under local autonomy.

Q. Wasn't the business representative there in some trouble? A. Not that I know of. He is still business representative there yet.

Q. And he is not in any trouble at all? A. Not that I know of. I don't think he is in any trouble. He is down there every day, from what I can understand. He [2098] just called me a week or so ago. I don't think he is in any trouble. If he has, he kept it to himself.

Q. Did one of your agents have to quit down in 181? That is in the Evansville, Indiana territory. A. He resigned, yes.

Q. Why? A. One of them resigned. Why did he resign?

Q. Yes. A. I can't tell you his reason for resigning, but I got a complaint down there and I sent people in there to investigate it and he resigned.

Q. And don't you know what the investigation showed? A. I haven't heard a report on the investigation. He resigned.

Q. You mean you stopped your investigation when he resigned? A. It wasn't necessary after he resigned.

Q. You stopped your investigation as to this man when he resigned? A. Yes, sure.

Q. And didn't your investigation disclose anything improper about that agent? A. No, I don't think there was anything improper about him, only his feelings were hurt that they were investigating [2099] him.

Q. Wasn't there any misappropriation of funds? A. No, sir.

Q. You say you stopped your investigation. How can you say that? A. I stopped it, that's right. That wasn't the question at all. There wasn't no misappropriation of funds.

Q. What was it supposed to be? A. It was on something else entirely.

Q. What was it? A. A complaint came to me and I investigated it. I don't know whether it is true or not, so why should I tell you?

Q. What was the complaint? A. It is only a complaint. The complaint was he was renting machinery to somebody else, to the contractors, and we found out it wasn't so.

Q. I thought you said you didn't know what the investigation showed. A. That is as far as it went. But he got insulted and resigned. What is the use of continuing it on? For what purpose? There wasn't any money involved, because he don't handle money or didn't handle money, and he was there a good many years, too.

Q. Who handles the money for that local? [2100] A. A fellow name of Kelly.

Q. And where is the money kept? A. Part of it in Evansville and part of it in Chicago.

Q. Why should that money be kept in Chicago? A. For the very simple reason why he can get interest on the money in Chicago and he can't get it in Evansville in the bank.

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[2108] Q. My question to you, Mr. Maloney, is, what

information do you have regarding these International contractors who called you, or who you said called you yesterday? A. I am trying to tell you that as to one in particular down here, that the question, when they call us, why, I suppose the office would call them down here to see what the trouble is. And the complaint I got, if my memory is right, is that 542 told them that these people were on the negotiating committee, were taking an interest in the negotiating committee in the contract, and they wasn't going to release them under that supervision. I think it was Stone & Webster. I am not sure now, I am [2109] only thinking. How can I remember all the International contractors?

Q. I take it your office is run on a business-like basis. That's right, isn't it? A. We try to run it that way, yes.

Q. Don't you make memoranda of all these telephone conversations? A. Sometimes we do and sometimes we don't.

Q. Why don't you do it all the time? A. Because that hasn't been the policy to do that all the time.

Q. Why? A. Because we only get in a lawsuit every ten years.

Q. What has that got to do with it? A. It has got a whole lot to do with it.

Q. Don't you think you ought to have it from your own records? A. We don't need it for our own records. After you get a job settled, you don't worry about it.

Q. What makes you make a memorandum, and why don't you make a memorandum? A. Maybe I make a memorandum. I don't think I ever make one myself. I make a memorandum for to bring it to my attention or somebody else's attention around, or call [2110] the Local Representative in regard to a situation.

Q. Mr. Maloney, you already had the order of supervision made out when the conferences were going on in Judge Grim's chambers, didn't you? A. That's right.

Q. You already had it made out all the time despite

the fact you were sitting in there—your representatives were sitting in there trying to work out some settlement? A. That's right.

Q. And it was at your instruction, was it not, that your counsel got up and forced the local to withdraw its demand for retroactive pay— A. Absolutely—

Q. Let me finish. Will you repeat my question, please, as far as I went.

(The question was repeated by the reported.)

By MR. FREEDMAN:

Q. —under threat of having supervision invoked at that moment? A. Absolutely not. I didn't give him any instruction of that kind whatsoever.

Q. You know that was done, don't you? [2111] A. No, I don't.

Q. Didn't anybody tell you that was done? A. No, they didn't. What they told me is what I told you yesterday, that you waived the jurisdiction of the back pay. That is the statement that I made yesterday, and I am making it today. That is the information that I got.

Q. Who gave you that information? A. Well, it come from Mr. Rhoads' office.

Q. And said that I did it voluntarily? A. I didn't say anything—I didn't use the word voluntarily.

Q. Did you tell—

MR. FREEDMAN: And then continuing on page 372.

By MR. FREEDMAN:

Q. Is there anything else you want to say? A. I said that the information given to me out of Mr. Rhoads' office was that you waived the jurisdiction for the back pay.

Q. Now, what instructions did you give him about the back pay? [2112] A. I didn't give him any. I told you that. Not any at all.

Q. You know he signed a stipulation, don't you? A. I don't know that, either.

Q. You don't know that, either? A. No, I don't.

Q. In your name. A. No, I don't.

Q. Did you give him authority? A. No, I didn't.

Q. Do you mean to tell me you did not authorize Mr. Rhoads to sign that stipulation in court? A. That's right. I don't know when he signed it. When did he sign it?

Q. You are answering the questions now. You better ask him. A. All right. I will ask him.

Q. I am sure that Mr. Rhoads would not sign any stipulation as your counsel without your consent. A. All right. I didn't give him any authority to sign any stipulation.

MR. FREEDMAN: Down near the bottom of the page:

[2113] By MR. FREEDMAN:

Q. Didn't somebody tell you, Mr. Maloney, that the conference in Judge Grim's chambers was stalemated for a time because the Local was insisting on the back pay? A. No, sir.

Q. You didn't know anything about that? A. No.

Q. And didn't they tell you that the stalemate was only broken when you threatened to invoke supervision? A. No, sir.

Q. Now, you invoked supervision in order to get control of that arbitration, didn't you, Mr. Maloney? A. No, sir. I invoked supervision, I thought for the best interests of the Local Union. If arbitration happened to be one of the things, all right.

Q. But you immediately took control of that arbitration, didn't you? A. No, I didn't. Under the rules of our organization when we took supervision, of course, we went on through with the arbitration, because the judge had agreed that—you agreed with the judge, not me. You agreed with the judge to arbitration. I wasn't a party to that thing at all. I wasn't a party to that proceedings in here.

Q. Your counsel signed the stipulation. [2114] A. I am telling you that I wasn't a party to that stipulation.

Q. You mean you disapproved of that? A. Yes, I did.

Q. And you mean you didn't— A. You know why I disapproved of it. I tried for three weeks and begged the Local Union to go back to work and see if we can settle it by arbitration. I tried that for three weeks, sent them telegrams and everything else to try to get them back to work and arbitrate the difference, and they wouldn't do it. And then they immediately went to court and agree with the judge to arbitrate it, but they wouldn't agree with me to arbitrate it.

Q. When you tried to force your will on them. A. At that time there was never nothing said about anything at all, when I asked them to go back to work and arbitrate it. There wasn't anything in any shape, manner or form, action or anything else that looked like a force, but they wouldn't go back to work for the General President, but they would go back to work for a judge. And so they went to court so they could go back to work for the judge in the arbitration.

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[2115] Q. Now, as soon as you took over the arbitration you immediately proceeded to waive some of the demands, didn't you? A. Not any, not any. I didn't take over the arbitration. My assistant took over.

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[2117] Q. You don't take any responsibility for it, then? A. Certainly I take responsibility for him that he would conduct it properly, yes.

Q. Didn't he tell you he waived the request for increase in wages? A. He didn't tell me he waived the request for increase in wages because he got it.

Q. Over and above the rate which the independents were getting? A. The independents were getting 25 cents and he got 40 cents, and everybody got their back pay.

Q. That is your recollection of the whole situation? A. That's right: I have a recollection of that, yes.

Q. So in your opinion you feel that you got them 15

cents an hour more than what the independents were getting? A. That is what they tell me.

[2118] Q. I suggest to you, Mr. Maloney, you ought to take a little more personal interest in these things and maybe you would know about them.

THE COURT: There is an objection to it.

By MR. FREEDMAN:

Q. Did you have any conferences to determine how the arbitration should be conducted? A. Personally, no. I think Mr. Wharton had the conference for to try to get the—

Q. Did they consult with you before determining what policies should be adopted? A. No. I think I told Mr. Wharton to insist on certain things in the contract, try to get them. He did. He done a pretty good job, I think, between him and Mr. Wolfe.

Q. But you don't know what he did. A. I can only— The contract talks for itself.

Q. And you did not personally participate in the arbitration? A. No, no.

Q. You did not engage in any of the conferences to determine how— A. Not a bit. Outside of talking to Wharton when he [2119] would be in my office. That is strictly a Local matter.

Q. Did you still consider it a Local matter when you took them over under supervision? A. Absolutely. They were the ones that wanted to go under supervision. They were very anxious to go under supervision, the great majority of them.

Q. How did you find that out? A. By a letter that I got from them.

Q. From whom? A. I can't think of the fellow's name, but it is in the record here. You read it.

Q. Don't you think if you felt that way about it you should have taken a referendum of the members? A. Why take a referendum of the Local that wouldn't do anything at all?

Q. I thought you said a great majority of them wanted you to take over? A. That is what the letter says.

Q. You mean a letter from one or two individuals? A. Why, he had some signatures on it, I don't know how many. It talks for itself how many was on it.

Q. You took a letter from a few individuals and construed that to mean the great majority were on your side, despite the fact the majority at a meeting voted [2120] against you? A. I knew that the Local to get straightened out would have to be put under supervision. In fact, while your conference was going on in Judge Grim's courtroom, Judge Grim sent for me. I was over in the Benjamin Franklin Hotel—to have a private talk with me, which you know. And I had a talk with Judge Grim and I told him certain things. I told him I was going to put the Local under supervision, for one of them. And he says, "Will you tell that to Mr. Underwood?"

I says, "I certainly will." And he brought Mr. Underwood in the chambers. It was Judge Grim, Mr. Underwood and myself. And I told Mr. Underwood then I was going to put him under supervision.

And Judge Grim said to me, "Now, listen, we might get this—" or words to this effect. I don't want to say I am giving the exact words. He says, "We are going to have a meeting," and he said, "to see if we can put it up to the Local Union. ... says, "Will you wait until Tuesday morning to put the Local under supervision?" we will wait until after the Monday meeting. That is what he says.

I says, "I will if you ask me to do it."

[2121] And he says, "I am asking you to do it."

And I says, "All right. If that is your request, Judge, I will do it. I will wait until after the meeting of Monday." Underwood there heard the story. And I walked out of the room at that point, I believe; thanked him for his interest in the situation.

That is a correct statement as far as I can remember of what happened in Judge Grim's courtroom. And I walked

out, and I didn't stay around the Court House, either. I got on the train and went back to Washington. And I understand that the meeting lasted three or four more hours after that. I didn't even stay there. I don't know what was in the meeting, and I didn't get a report from it because I wasn't there, and I told my attorneys not to participate in that, and my understanding is that the Court requested them to come in as a friend of the Court.

Q. The Court requested who to come in? A. Request for Mr. Rhoads to come in as a friend of the Court.

Q. I see. A. That is my impression.

Q. Who told you that? A. Well, that is my impression

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[2132] Q. Now, you never held any hearing before invoking supervision, did you? A. No.

Q. Didn't you think it was necessary? A. No.

Q. You stated you were going to give them, in your order invoking supervision your stated you were going to give them a hearing at a later date, didn't you? A. That's right.

Q. Why didn't you give them the hearing first if you [2133] felt a hearing was necessary? A. I didn't think it was necessary.

Q. Why did you give it to them later? A. Because if they wanted to come in and hear their side of the story, I was glad to hear it.

Q. Why didn't you hear their side of the story before you invoked supervision? A. I didn't think it was necessary.

Q. Why did you think it was necessary after you invoked supervision? A. They had the privilege of appeal, and if they wanted to come in there, they could state their case.

Q. Well, that wasn't the appeal, was it? A. Yes, it was.

Q. The hearing? A. When we had a hearing after supervision, certainly it was.

Insert after line 1 on page 725a.

[2135] Q. Now, did you attend that so-called hearing in Washington after you invoked supervision? A. No, sir.

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[2139] Q. You say that Mr. Carter presided at that meeting. Let us call it a meeting. A. I understand. That is my impression.

Q. Who designated Mr. Carter to preside? A. I did.

Q. When? A. Sometime before the meeting, I don't know the exact date.

Q. Why did you pick Mr. Carter? A. Because I thought he was the best man on this situation.

Q. Even though he had already placed charges against Underwood? A. I don't believe that any charges were placed at that time. Maybe I am mistaken.

Q. You know that he was at odds with Underwood and the Local, didn't you? A. I didn't know he was at odds with them at any time, no.

Q. You knew that there had been considerable friction between Underwood and Carter, didn't you? A. There is always that when you try to settle anything. [2140] There is always one side claiming they got a little friction. That don't necessarily mean they are at odds with one another.

Q. You said before that Carter had been reporting to you about dissension in the Local for two or three years, didn't you? A. Yes, he did, about different things that happened at the meeting.

Q. And you felt that despite his feeling toward the Local he was the best man to preside? A. That's right. He didn't have any animosity against the Local Union.

Q. Why didn't you put in McDonald, who was the International vice-president? A. I didn't want him.

Q. Why didn't you want him? A. Because I didn't want him. I didn't think he was the ma . I pick the men for my best judgment.

Q. What function did Mr. Thomas serve at that meeting? A. You will have to ask Mr. Thomas. I wasn't at the meeting.

Q. Didn't you assign him? A. I did not.

Q. You don't know what part he played? A. I don't know. I wasn't there.

Q. The hearing that you scheduled? A. Yes.

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[2141] Q. Did you direct that a stenographic record of the proceedings be kept? A. I didn't have anything to do with the meeting at all. I just called—told Carter, and sent a letter to Carter and notified him to be chairman of the meeting. What happened at the meeting, I wasn't there, any more than you were.

Q. Did Carter hold any official position in the International Union? A. No, sir.

Q. Didn't you give him any instructions about what to do regarding the hearing which was to be conducted? A. I did not. I told him to conduct the hearing.

Q. That is all you said to him? A. Well, whatever the letter shows for itself, I don't know what I said.

Q. Did you send a letter to Carter? A. I believe I did, yes. It is in the file, I believe.

Q. You sent a letter to Carter directing him to hold the meeting? A. That's right, like I sent an order to anybody.

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Q. In this latter of yours to Carter (referring to Plaintiffs' Exhibit 400) you simply designated him as your deputy and hearing officer. Now, isn't it part of your policy to [2142] report all hearings stenographically? A. No.

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[2143] Q. Well, have you had hearings before? A. Oh, yes, we have had lots of hearings.

Q. And haven't you made any written record of the questions and answers propounded, or charges? A. If you hear them in front of the Board, the Board generally—I am a little bit foreign to this—I am trying to tell you the policy. Hearing before the Board, [2144] they always take notes of their own on the situation for their own benefit.

Q. Well, is there any one member of the Board desig-

nated to make a record of the answers and questions? A. The secretary is, yes.

Q. And isn't there any formal procedure adopted at any hearing? A. No.

Q. You don't have any formal procedure? A. No.

Q. Don't you first present the accused with the charges? A. Yes.

Q. And then don't you proceed to prove the charges, or do you ask him to disprove them? A. Not necessarily. We present him with the charges and he has an opportunity to refute them or deny them, or whatever he wants to do; whatever you want to call it.

Q. You give him the charges and you say, "Here, disprove them"? A. That's right, like any other case.

Q. Is that your regular procedure in your Union? A. Well, that is generally the procedure when we give him the charges. When he comes up there, then we read the chargs and he has got an opportunity to answer them.

[2145] Q. And is that the procedure which was followed here? A. So far as I know.

Q. In all of the hearings that were held in this case, both with respect to Underwood and the Local? A. As far as I know, Mr. Freedman, that is the case. Would you let me read that letter? Thank you.

Q. Were you told that the Local was denied the right to counsel at that meeting? Let us identify that by date. I think that letter indicates the date. A. I can answer the question for you?

Q. That meeting was scheduled for August 26, 1952, in Washington, is that right? A. That is what the letter says. I just read it.

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[2146] THE WITNESS: That is not the policy of our International Union to let outside counsel in at our meetings when we are holding hearings.

By MR. FREEDMAN:

Q. Q. You have your own counsel at these hearings, don't you? A. Very seldom.

Q. Didn't your own counsel sit at this hearing on August 26? A. He can talk for himself.

Q. Well, didn't you know that he sat in? A. I believe his name is on that report, on the report.

Q. Do you disapprove of his presence there? A. I didn't disapprove of his presence. He is our counsel.

Q. Did he have a right to be there? A. As our counsel he did, yes.

Q. Why shouldn't the accused have a right to counsel? A. Because our constitution in our local trials specifically states, if I am not mistaken, or unless it has been changed, that they can't bring outside counsel in, it has got to be a member of the organization, and the same rule, [2147] I guess, would apply to the International Union.

Q. Will you be good enough to point out to me the provision of the Constitution which says that you can have your own counsel? A. Well, let's see. You have got the Constitution, haven't you, Mr. Freedman? You know it is in there. I can look through it. Suppose we, to hurry this thing up a little, I will make a statement: It is the policy of our International Union not to get outside counsel in our meetings or hearings. Does that clear it up for you?

Q. Well, I wanted to see the provision in the Constitution: A. I just wanted to hurry the thing up for you. Page 100, Article 23, Section 7 and—I mean subdivision 7, and Section N is marked out there with a pen.

Q. The provision which you have marked out here states "Complainants and defendants may present their own cases or by counsel selected from among the membership of the International Union of Operating Engineers." Now, that is part of Article 23, Subdivision 7, Section 1, which relates to trials for Local Unions, is that right? A. That's right.

Q. Now, do you have any similar provision— A. That is the question you asked me, isn't it?

Q. I am asking you now whether you have any similar [2148] provision governing hearings by the International

Union? A. I told you, the policy of the International Union is not to let outside counsel into the hearing.

Q. So that actually you have no provision, no constitutional provision covering the International Union as far as counsel is concerned? A. No, not in the Constitution.

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[2154] Q. Who made the arrangements for the hearing in New York on the charges against Underwood? A. Well, I think the record will show that Mr. Underwood got a letter and told him that the charges were going to be brought in front of the General Executive Board on that date.

Q. Well, who made the arrangements for the hearing? A. What do you mean, make arrangements?

Q. Well, first of all, who fixed the date for the hearing? What was that date? In September, wasn't it? A. Yes, it was in September, yes.

Q. Who fixed that date? A. It probably was me.

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[2157] Q. All right. Now, will you kindly proceed and tell us just what happened at that hearing. You say you took the Chair at the General Executive Board. A. Yes. Called the meeting to order.

Q. Yes. A. And stepped out of the Chair and notified them and asked Mr. Delaney to take the Chair. And Mr. Delaney took the Chair, and I sit over on the sidelines.

Q. And then what happened? A. Well, they read the charges.

Q. And Mr. Underwood had a chance to answer them? A. And did answer them with a lengthy report; lengthy [2158] report answer. Then I got up and stated the question about what happened in the court, as far as I knew about the case, and told the General Executive Board what they accused the International of, conspiracy and one thing and another. And then some of the gentlemen, one of them I think is in the room now—maybe two of them—asked me a lot of questions—of me. Didn't I think that Under-

wood had done a good job? They didn't talk about the charges at all. The only man that talked about the charges was the gentleman at the other end of the table, Mr. Leone. Isn't that right? He said that he shouldn't be crucified or shouldn't be held responsible for what their attorney done, and what he said in the indictment, they ought to take that under consideration. After that remark no more was said to me and I walked out of the room.

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[2161] "Q. Was your counsel present at that hearing?"

THE WITNESS: Mr. Thomas was there, yes.

By MR. FREEDMAN:

Q. Mr. Thomas is your general counsel? A. Yes, he is. He also is a member of the Local Union of 589 or 598, I don't know which one.

Q. Which union is that? A. Cleveland, Ohio.

Q. Does he engage in the occupation as an engineer? A. Yes, I guess he did.

Q. When is the last time he operated any equipment? A. You will have to ask him that.

[2162] Q. You say he did. Do you know of your own knowledge that he did? A. No, I don't know. I suppose he does. He belongs to the Local Union, got a paid-up card, and had it for a good many years, long before I ever met him

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Q. And did he participate in this hearing? A. He— I believe he read the complaint that you made to the Court. In other words, what do wou call that?.

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[2163] Q. When is the last time that you know of that Mr. Thomas worked as an engineer? A. I am telling you he had a card before I ever met him.

Q. Will you answer the question, please. A. I can't answer it because I don't know the answer.

Q. Well, that is the answer to it. A. Yes.

Q. Did he do anything beside reading the complaint? Did he make any statement? A. Well, I can't recollect whether he did or not, Mr. Freedman.

Q. In any event, he was there and participating? A. I wouldn't say he was participating. He was in there. You know, I was a little bit—In the meeting I was very anxious to get out of the meeting. When Mr. Underwood and Judge Grim and myself were talking—I suppose the proper English would be Judge Grim and Mr. Underwood and myself—was in talking in his chambers, I told Judge Grim that I wouldn't participate in the meeting in any shape, manner and form, that I would report what happened to the Board and they could do as they seen fit in the case.

Q. Did you also tell him that you thought he would [2164] simply be reprimanded? A. No, sir. I didn't make any statement like that at all. He asked me what kind of a business agent Underwood was, and I thought up to the present time when all this controversy started and this last strike, I thought he was all right. And the proof of that is that I put him on the Law Committee in Seattle, where he got paid for his services.

Q. And you did not tell anybody in chambers that—You did not tell the judge that Underwood would probably only be reprimanded? A. I didn't, because I didn't have anything to do with the decision, and I told him plainly that I wouldn't have anything to do with it, or preside in the case. I told him I would explain the situation to the General Executive Board and they could do as they see fit.

Q. Is it your position that you do not have any influence with the Executive Committee? A. In this particular case, none whatsoever.

Q. I didn't ask you that. I asked you another question. A. What are you trying to find out?

Q. I asked you a question. A. I thought we were talking about this case.

Q. We are talking about this case. A. Well, I say in this individual case—

[2165] Q. Will you answer the question? A. In this individual case, no.

THE COURT: Go down to the bottom.

By MR. FREEDMAN:

Q. Do you understand the question? I want to be sure you understand the question. A. Well, I understand it to this extent: We are talking about Mr. Underwood now and the General Executive Board in this case. Now, just see if I am right. You are asking me a question whether I had any influence with the General Executive Board. Naturally, I think it is in this case and this case alone that you are talking about. I don't think any other case you have got anything to do with, but in this particular case under no circumstances did I have—speak to any of the Board members. I kept my promise to Judge Grim that I wouldn't have anything to do with the case, and I made that statement in front of Mr. Underwood, that he can corroborate, and that I didn't say anything to the Board at all.

And that is what I wanted to get out of the room for. After I had made the statement, I wanted to get out of the room. Now, if you are talking about [2166] outside of that altogether, that is a different question.

Q. Now, I am saying to you generally, don't you have any influence with the General Executive Board? A. Yes, certainly, as General President I have, sure.

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[2167] Q. What record was made of the hearing? A. To my observations, every one of the Executive Board made notes—had a pencil in their hand, and I presume they were making notes of what was transpiring for their own information, and the secretary, of course, kept the minutes.

Q. You say the secretary kept the minutes? A. Yes.

[2168] Q. Where are those minutes? A. They are in the proceedings of the hearing.

Q. You mean the minutes that were reported in the Journal? A. That's right.

Q. Are those the only minutes that were kept? A. That's right.

Q. There are no other minutes kept beyond that? A. No. I don't think so.

Q. No other record made? A. No.

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[2175] A. Now, Mr. Maloney, there was no other record of the proceedings involving the charges against Mr. Underwood than what is in this record right here that I hold in my hand, is that right? A. I think that's right.

MR. FREEDMAN: If the Court please, for the record I was referring to Exhibit 1104-A which has now been marked P-121-A.

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Q. Now, Mr. Maloney, will you tell us what statement you made in that hearing? [2176] A. Well, I can't give you word for word what statement I made. I explained to the membership that—After the charges were read, I explained to the membership how I was served with this summons and what happened to it, and that my efforts being made for to try to settle the dispute, or the strike, and what methods I had used and what I had done. That is the sum and subject of the remarks.

Q. Well, as closely as you can recall, tell us exactly what you told them. A. That is about as close as I can recall. That is a year [2177] ago, Mr. Freedman. Why —Now, you can't expect me to remember any more than that particular question—that particular answer than that. I have only got an ordinary mind like yours. Maybe you got a faster one. But that is my question—that is my statements.

Q. Are you all through A. Yes.

Q. How long did you talk? A. Oh, I didn't talk two or three minutes.

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[2180] Q. Do you know whether Mr. Thomas sat with the Board in the course of their deliberations? A. I know he didn't.

Q. How do you know that? A. Because I wasn't too far away from there. In other words, I was outside in the hall or someplace else, and I know that Mr. Thomas wasn't there.

Q. While the deliberations were going on? A. That's right.

Q. Didn't you say to some of the members of the Board either during the course of the hearing or before or after that Underwood has got to be taught a lesson? A. No, sir.

Q. Never said it. A. No, sir.

Q. Never said it to anybody? A. No. Before that happened. That is what you are talking about, before the trial, before the decision?

Q. Before or after. A. After?

Q. Before, during or after. [2181] A. After, that would be a common remark.

Q. Did you make it? A. Not that I recall, but I wouldn't say I didn't.

Q. Whom did you make it to? A. That I don't know. I want to say again that I promised the judge that I wouldn't interfere in that case whatsoever, and I kept my word.

Q. Are all the members of the Board, the Executive Board—that is called the General Executive Board, isn't it? A. That's right.

Q. They are all vice-presidents? A. Yes, sir.

Q. Are there any members of the Board who are not vice-presidents? A. No, sir.

Q. Other than yourself, of course. A. Well, only the secretary-treasurer.

Q. Is the secretary-treasurer a member of the Board, too? A. Yes.

Q. Is the secretary-treasurer an elected office? A. Yes, sir.

Q. How many vice-presidents are there? A. Seven.

Q. Now, they have no assigned duties under the Constitution, [2182] have they? A. No.

Q. How do they get assigned to duties? A. The General President assigns it.

Q. And how many of these vice-presidents are assigned to duties by you, by the General President? A. Three.

Q. Which are they? A. Mr. Welsh, Mr. Converse, and Mr. Stuhr.

Q. Welsh, Converse and Stuhr? A. Yes.

Q. How about McDonald? A. I told you yesterday that I didn't assign him anyplace.

Q. Isn't he assigned now? A. No, he isn't.

Q. Does he have any duties now? A. He is accumulating some duties for himself, but he is not under any orders from me.

Q. Is he getting paid? A. Yes.

Q. How many other members of the Executive Board are engaging in any duties? A. Three.

Q. Just those three? [2183] A. Yes.

Q. I mean the three that you mentioned, or three additional? A. Yes, three I mentioned.

Q. Beside McDonald? A. Yes.

Q. Who are the other three beside McDonald?

THE WITNESS: Wait a minute, Bill, let's see what he is trying to find out.

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Q. How many vice-presidents are there who are not performing duties as vice-presidents? A. They are all performing duties as vice-presidents.

Q. I mean extra duties, such as the three that you are talking about; the three that you mentioned, and McDonald. A. You objected yesterday to me using certain words and certain things and I object to your putting McDonald in it all the time, too. I explained that case very thoroughly, I believe.

Q. You have a right to object. You put any objection you want on the record. [2184] A. All right. Now, we will have a mutual—What is fair for you, Mr. Freedman,

should be fair for me. Well, I would say that there is—If my question is right, you want to know the other vice-presidents?

Q. You have stated— A. You read the question to me so I can tell.

Q. You have stated that three vice-presidents whom you have named are engaged in certain assigned duties, and Mr. McDonald is doing other duties which you say he has taken for himself. That is correct, isn't it? A. That's right.

Q. Now, what are the other three vice-presidents doing? A. They represent a Local Union in the territory where they are.

Q. I see. Will you specify who they are, please? A. There is Mr. Imhahn from Local 399 of Chicago. Mr. Converse, Local 18, Cleveland. Mr. Joseph Delaney, Local 15 of New York City, and I think that completes the set.

Q. Do those three vice-presidents get any income as vice-presidents? A. Yes.

Q. How much? A. Fifteen thousand dollars a year.

Q. Aside what income which they get from the Local?

[2185] A. I suppose they get an income from the Local, I don't know.

Q. Is there any provision in the Constitution for the pay of the vice-presidents? A. No, sir.

Q. Well, how is it that they get pay? A. Set by the General President.

Q. That is set by the General President? A. Yes.

Q. When did you set that? A. Oh, offhand I would say about '44. That is a guess.

Q. The pay of all other officers is fixed in the Constitution, isn't it? A. Only two, the president and the secretary.

Q. They are fixed by the Constitution? A. That's right.

Q. And you have it in your discretion to fix the pay of the others? A. That's right.

Q. Why give them any pay at all? A. I don't expect anybody to work for nothing.

Q. But you wouldn't have to give them anything if you didn't want to, would you A. Well, they might vote it for themselves, I don't know. [2186] They have that power.

Q. How do they have the power, if it is not provided for in the Constitution? A. Well, you know labor unions as good as I do. They assume a lot of power sometimes.

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Q. . . . . Did Mr. Thomas follow you after you made your statement at the hearing before the General Executive Board on the charges against Underwood? A. It is my best recollection that he did. That is not a positive, but it is my recollection.

Q. Did you attempt to answer the charges in the complaint? A. No, only what these members asked me about —the questions from the floor, or spoke from the floor. Mr. Leone and Mr.—

Q. And I understand that related to Underwood's good conduct during his tenure in office? A. Some of it did. It was far from the question before the house, but that is what they talked about, outside of Mr. Leone

[2187] Q. What did he talk about? A. He really talked to the point. He talked about the order of the Court, as I told you before, and that he shouldn't be criticized or held responsible for what the lawyer did. In other words, what the lawyer said in the complaint, he felt that that should not be—the Local should not be held—or Mr. Underwood should not be held responsible for what the attorney done in the case.

Q. And other than that, the only other questions related to— A. They were talking about Underwood's record.

Q. —good conduct, his record? A. That's right. That is the best of my recollection. Maybe they said something else, but I don't know.

Q. Mr. Underwood's record was good, wasn't it A.

I said this morning I thought it was pretty good until all this trouble started.

Q. He did a good job of organizing and running the Union, didn't he? A. He didn't do a pretty good—he didn't do a good job organizing because a lot of the western part of this jurisdiction wasn't organized, but he done a fair job of running the Union, yes.

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[2196] Q. Mr. Maloney, you testified yesterday about a conversation that you had with a gentleman in the course of the [2197] Atlantic City proceedings. Do you remember you gave some testimony about that? A. I said that it was common knowledge around, the question about the—

Q. And you say you talked to one man particularly about it. Do you remember A. Yes.

Q. Who was that gentleman? A. Well, I told you yesterday I didn't know what gentleman it was, but I said he was a carpenter. And I have been thinking over last night, and I think the carpenter was the president of the Carpenters. That is my knowledge now. Mr. Hutcheson, I think it was Mr. Hutcheson that I talked to, and that is not a positive statement. That is my opinion after thinking that answer over since last night.

Q. Now, what I want to know is what he told you. A. He told me that the carpenters were on a strike against the engineers in Philadelphia.

Q. Now, did you— A. That information was conveyed to him by somebody in Philadelphia, and he didn't say who.

Q. Did you tell him— A. If I am talking, thinking of the right man now.

Q. Now, what was your answer to him when he said that? [2198] A. There wasn't anything I could say at all.

Q. Didn't you reply to him at all? A. Outside of the fact that I was sorry that this happened. As I told you

yesterday, I was ashamed of the whole damned thing. There wasn't much I could say.

Q. Is that what you told him? A. I told him I was a little disgusted with the whole situation.

Q. Didn't you make it clear to him that you were going to stand up for your engineers? A. Why, everybody knows that that knows Maloney. I don't have to make that clear to anybody.

Q. Why didn't you make it clear to him? A. Why should I make it clear to him? He has known me for years, and he knows it is my policy. You don't keep repeating your policy every time you see a fellow, you know.

Q. So you told him you were just disgusted with the whole thing? A. That's right, or words to that effect. I don't know whether I used the word "disgusted" or not.

Q. Mr. Maloney, do you recall the time when Underwood was trying to organize the Turnpike—the contractors who were working on the Turnpike? A. Very well.

[2199] Q. Do you recall a contractor by the name of Harrison? A. I know that is the name of one of the contractors, yes.

Q. Do you recall that they had quite a bit of trouble with the Harrison job, in organizing his job? A. You know who organized it, don't you?

Q. I asked you. Please answer the question. A. Yes, I know a whole lot about it. I will tell you who organized it, too, if you want to know.

Q. You will get a chance to say what you want to say. A. O.K., all right.

Q. Do you recall that Local 542 were picketing Harrison in an attempt to organize him? A. That is a possibility that they were picketing Harrison, yes.

Q. And do you recall that Hunter Wharton's men were coming in from Local 66 and working on the job, going through the picket lines? A. That is a possibility.

Q. You know that is true, don't you? That was reported to you? A. It probably was. I said it is a possibility.

Q. It was reported to you. A. Who reported it to me?

Q. I am asking you. Wasn't it reported to you? [2200] A. I don't know. I say that is a possibility. If you say it was, I will take it, yes, sir.

Q. I say, wasn't it reported to you? A. I am not sure. I am trying to tell you.

Q. And at that time didn't McDonald protest to you about Hunter Wharton's failure to cooperate in that strike? A. I would like to call to your attention, Mr. Freedman, that Hunter Wharton wasn't in Pittsburgh at that time, and it wasn't his men. He was in my General Office and represented me as an assistant to me, and he didn't represent the Pittsburgh Local at that time, so they couldn't have been his men.

Q. Are you sure? A. Pretty near positive of that.

Q. Didn't you read Mr. McDonald's reports to you concerning that situation? A. I read a lot of reports. I would say maybe I did. But I want to call to your attention that after this eastern—this Turnpike was going non-union, it was through the effort of me, after being reported to me that there were non-union and there was nothing being done about it around this territory—at least, I felt there was nothing being done about it, that I got the rest of the General Presidents that was involved in there—the laborers and carpenters and [2201] ironworkers—I believe, I am not sure about the ironworkers—at a meeting of the A. F. of L. convention in St. Paul, and there was no representative of 542 there at the time. And I was able to convince them fellows that we needed some help, and the only way we could do it was to stop the jobs in other parts of the United States. And we didn't really stop the jobs, because it was a violation of the Taft-Hartley Law, but we conveyed the information to the men, and the men refused to go to work. Not only the carpenters in New York—the jobs the men refused to work in certain parts of New York, certain parts of Ohio, certain other parts of the country, including Illinois and Minnesota—

to try to convince these contractors that they wasn't going to work Union in one part of the country and non-Union in the other. And that was instrumental in straightening the job out, as much as we could, and we incidentally got into a lawsuit over that, too. A gentleman from Baltimore —he had a job in Baltimore—

Q. Are you all through? A. Yes.

Q. Don't you remember your progress reports that were sent to you weekly by Mr. McDonald concerning that? A. No, I don't remember them at all.

Q. Don't you remember that it wasn't until after McDonald protested to you to compel Wharton to take his men out of [2202] there that Harrison finally signed up? A. I told you that Wharton didn't have his men in there. He was working for me as assistant. It wasn't Wharton's men. If you are going to keep on using the word Wharton for some other motive, he wasn't in Pittsburgh.

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Q. Mr. Maloney, one of the demands which the Local had been pressing in connection with that strike—for which they were on strike, was that they wanted, so far as wages were concerned, parity with New Jersey. Do you remember that? A. That come long after the strike started. That come [2203] in as a final suggestion from Mr. Underwood. There never was nothing said about that in Chicago at all.

Q. Do you object to that? A. No, I don't object to it. I don't object to it even today, if it could be done, but that was put in after everything else was discussed.

Q. Did you see the rider that was prepared before Mr. Underwood went to Chicago? A. No, I didn't. There was no rider at that time presented to me, and I didn't read any.

Q. Then you don't know what the demands were that were presented? A. I know that the demands he was telling me—

Q. You can't answer my question until you hear the question. Then you don't know what the demands were that were presented prior to Mr. Underwood's coming to Chicago, since you didn't even look at the rider? A. All I knew is what Mr. Underwood showed me, and he didn't show me anything like that.

Q. However, you did learn about the demand at one time or another, for parity with New Jersey? A. Afterwards, yes.

Q. And what was your reaction then? A. My reaction was if it could be accomplished, I would be [2204] glad to do, but after 115 days strike, or whatever it was —I don't know whether it was 101 or 2 or 15—somewheres over three months—you said yourself yesterday—why, I thought it was bad grace to try to inject that at the last minute.

Q. So you refused to? A. I didn't refuse to do anything. I said I thought it was bad grace to put it in.

Q. What did you do about it? A. I didn't do anything about it.

Q. Did you press that demand? A. I didn't press the demand. If the Arbitration wanted to press it, it was all right with me.

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[2206] Q. Mr. Maloney, the International Union has always advocated a strong safety code, hasn't it? A. A strong what?

Q. Safety code. Shall I repeat the question? A. Oh, yes, yes. I have always tried to get—I wouldn't say—a universal safety code for the membership, yes.

Q. A strong one with teeth in it? A. Not the kind of teeth that Mr. Underwood was trying to put in it.

Q. Well, what kind of teeth would you want to put in? A. Just the regular—have agreement with the contractor that he would insist on having a safety and certain men could handle it. And we have made—We write articles on safety code. In fact, we got honorable mention of the Safety

Engineers, or got honorable mention—I don't know whether it was individual or not, at a safety meeting for our efforts for to try to make a construction job safety—safe on the construction job.

Q. Are you familiar with the provision in the safety code in the present contract— A. No, I am not.

Q. Or with the—Haven't you read the contract? A. No.

Q. The present contract? [2207] A. No.

Q. When were you last elected, Mr. Maloney? A. I was elected last year.

Q. What was the date? A. Well, the Convention nominated me in April, and I think the referendum vote was in June or July, the first part of July, or last part of June. I would have to look up the date to find it for you.

Q. You were nominated first in the Convention? A. Yes, that's right.

Q. Was there any opposition to you? A. No, sir.

Q. What does the Constitution provide for so far as elections are concerned? A. In what way?

Q. Parteiularly with respect to the office of president and vice-presidents and general secretary-treasurer.

A. Nominated in convention, a referendum vote.

Q. Will you explain to me how that referendum vote is conducted? A. We send little slips out to the Local Unions and they send us back the returns, what the vote is, and we take their word for it and print it in the Journal.

Q. Don't you count them in the main office, your votes? [2208] No, sir. What we count in the main office is the votes that the International—I mean, that the Local Union sent to the International office. Then we count them and list them in the Journal.

Q. In other words, you only get a statement from the Local to the effect that so many men voted for the president? A. That's right, that is it. We take the statement of the Local. That is, 542 done the same thing.

Q. And is that what you call a referendum vote? A. That is a referendum vote.

Q. Do you know whether ballots went out to each individual member? A. They are supposed to.

Q. Do you know whether they did? A. That is up to the Local Union—responsibility up to the Local Union.

Q. Wasn't there supposed to be someone appointed on the National level to conduct these elections and to count the ballots? A. No, sir. Yes, there is a committee appointed to count the ballots after they are all sent in. They are all sent in and addressed to a mail box or some particular spot with a sealed envelope, and we appoint three tellers from different parts of the country. We generally try to get one from [2209] the East, one from the West, and one from the central part of the United States, and they come in and open the envelopes and count the ballots. The ballots every individual Local Union is sent in.

Q. If a Local Union simply sends in a statement stating how many voted for— A. That is the only thing they are supposed to do. They are supposed to count the ballots and send the statement in.

Q. They are supposed to count the ballots and send the statement in? A. They keep the ballots themselves.

Q. The International Union doesn't do any counting of balolts? A. No, sir. We have faith in our Local Unions.

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[2211] Q. You said something yesterday about Mr. Underwood being illegally elected for a period of four years to office. When did you first find out about it? A. When it was brought to my attention.

Q. When? A. Oh, I think since this dispute started.

Q. And that would be when? Can you roughly place it? A. Say a year or so ago.

Q. About a year ago? A. About a year or so ago, yes. Maybe 14 months, maybe 13 months.

Q. Didn't you know about it at the time it occurred? [2212] A. No, I didn't.

Q. Weren't you kept advised of the progress of the elections? A. No, I wasn't. Not for the four years. I

knew he was elected, but I didn't—I thought he was complying with the Constitution.

Q. Weren't you getting reports? A. I knew he was elected, yes.

Q. I mean reports of the elections? A. I suppose they come into the office, yes. They come into the office every year, but that don't necessarily mean I see them.

Q. Weren't you getting McDonald's reports? Didn't he report to you on that? A. I don't know whether he did or not. I told you yesterday I didn't waste much time reading McDonald's reports.

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[2215] Q. Mr. Maloney, after the strike was over and after the men had returned to work, you still continued to collect strike assessments from the membership, didn't you? A. That question was brought to me by Underwood—I mean by Mr. Wharton, and Mr. Wharton raised the contention that a certain part of the Local Union had paid strike benefits into the organization while the strike was going on, and that there were certain members of this—I guess you will have to ask Wharton. I am only giving you an impression of what I think. And some of the members of the Executive Board, or the Advisory Board, if you want to call it that, in Local 542 raised the question, just because the other fellows hadn't paid the strike benefits, and the fellows had actually paid the strike benefit and put them up to date, and the other ones were delinquent, he wanted to know if he thought from me [2216] it was proper to do it. And I thought if the Local Union had a certain percentage of the Union to keep the strike going on to pay it, I though it was no more fair than the others were to pay it, too. And, of course, the money went into the Local Union, and I believe on that assumption, I think that the Advisory Board and Wharton —you can ask him this yourself—decided then for to collect the arrearage of those that hadn't paid.

Q. How much did you collect, do you know? A. I don't know.

Q. Since you took office, would you say you collected about 77 thousand dollars in your Defense Fund—for that Defense Fund, or Strike Fund, since you invoked supervision? A. 542?

Q. No, since you invoked supervision here, would you say you collected in excess if 70 thousand dollars for that Strike Fund? A. What do you mean by Defense Fund?

Q. Strike Fund, strike assessments. A. I think that is outrageous, that figure.

Q. You think it is way out of line? A. Yes. I am only telling you—I don't know, but I think it is ten times, maybe twenty times the amount they collected. That is my opinion.

[2217] Q. Have you been keeping track of it? A. No, I haven't, but the records will show it. I don't think they got 77 thousand dollars in the treasury.

Q. Yes, your own records will show it, Mr. Maloney. A. All right. That is all right. You asked my opinion and I told you. I really think that is a dream of somebody's.

Q. Mr. Maloney, are you familiar with all of the various items set forth in the financial accounts that are sent to you by Mr. Wharton? A. No, I am not.

Q. Can you identify the miscellaneous expenses which are set forth in those accounts? A. No, I can't.

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[2221] VICTOR S. SWANSON, having been duly sworn, was examined and testified as follows:

By MR. FREEDMAN:

Q. Mr. Swanson, do you have any records of any of the affairs relating to Local 542 or to Mr. Underwood's trial and charges? A. If I have any records?

Q. Yes, sir. A. Not except the record that might be in the magazines. I have no other records.

Q. Do you have any other correspondence from the main office, from Mr. Maloney, or anyone from the main office, regarding the trial of Mr. Underwood? A. No, I have no record.

Q. And you have no records regarding the supervision which has been imposed? A. I have not—no. I have no record.

Q. Did you make any records of your own in connection with the trial or the other affairs relating to 542 to assist [2222] you in your own decision relating to the supervision of 542 and the trial of Mr. Underwood? A. I made no records, but I was there.

Q. But you have no records? A. I recollect, from my memory.

Q. Mr. Swanson, did you ever hear of any complaints against Mr. McDonald regarding his activities, his union activities, particularly during the period that he served in the jurisdiction of Local 542? A. No, not that I can recall now.

Q. Did you ever hear of any criticism leveled against him by anyone? A. No.

Q. You attended many Executive Committee Meetings with him during the period from 1947 to the latter part of 1952? A. I attended them all, all the Executive meetings that were held.

Q. And Mr. McDonald also attended those meetings? A. That is correct.

Q. And you are both members of the Executive Committee? A. That's right.

Q. Executive Board, I guess you call it. A. Executive Board.

Q. He attended them all, also, did you say? [2223] A. Yes.

Q. And you engaged in discussions with him and with others during all of those meetings; general discussions about union activities? A. That might be true, that we discussed union activities.

Q. How frequently would you hold the Executive Committee meetings? A. Every three months.

Q. Did you have occasion to see him or the other officials of the Union any more frequently than that? A.

I had occasion to see McDonald quite often during the last year. He was here.

Q. You mean since he was transferred out of Local 542? A. Yes, he has been in California now over a year.

Q. Now, prior to that time did you ever hear Mr. Maloney or anyone else complain about Mr. McDonald or the fashion in which he was carrying out his duties? A. No. he never discussed that with me that I know of.

Q. And you never heard anybody criticize Mr. McDonald? A. Not that I can recollect now, no.

Q. Was he recognized as a competent, conscientious officer of the Union? A. So far as I know, he was.

Q. In your own dealings with him, did you find him as a [2224] conscientious, competent officer of the Union? A. I would say yes. So far as I was concerned—what I know.

Q. So far as you know, he conducted himself in a satisfactory fashion in so far as his duties in Local 542 are concerned? A. I did not know anything much about 542, but as far as I know, he did. As far as I know.

Q. Didn't you all have to make reports during the course of those meetings of your various activities? A. I don't quite understand that question.

Q. Well, didn't the respective board members make reports and carry on discussions regarding their activities in the course of these Executive Board meetings? A. I would say there was no reports made. They might have discussed it, say, in a meeting. Naturally, in a meeting they would discuss it.

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[2227] Q. Mr. Swanson, will you state specifically what the duties of a general vice-president are?

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A. I would say my duties as a Vice-President would be to [2228] look out for the interest of the members, to see that everything is taken care of properly so far as I can do it. My duties are practically the same as an officer of Local 3. I am looking out for Local 3 and see that

everything is carried on properly and so forth. I think that probably the constitution would define it better, but that is the way I see it.

Q. If you were not an officer of the local, would your office of Vice-President, General Vice-President consist mostly of duties in the nature of observation rather than affirmative duties to conduct the business of a union? A. If I was not an officer?

Q. Of the local. A. Yes.

Q. In other words, if you were only a General Vice-President, would you be here in an observatorial capacity or in some other capacity? A. Well, I would say that I would be here as an adviser and to assist locals in every way possible, to advance the interests of the International and so forth. That would be my interpretation of my duties.

Q. Are you assigned to this region as an International Vice-President? A. Well, I am elected from the western, eleven western States, I presume. I could probably be considered assigned [2229] in one way. I am not directly assigned to any place. I suppose I could be assigned to any place in the United States as the President might choose, but at the present time I would say that I am assigned to this territory here.

Q. And the assignments depend on the President; only he can make them? A. Well, I wouldn't say that only he can make them, but I think that probably the Executive Board could make it, but I think he is the directing head, and he probably would be the only man.

Q. Has anybody but the President ever made any assignments? A. That I can't tell you.

Q. Do you know of any assignments made by anyone other than the President? A. So far as the Vice-Presidents are concerned?

Q. Yes, sir. A. No, I have no recollection of any.

Q. How long have you been in the Union, sir? A. Well, I have been in about forty-six years, I think.

Q. How long have you been a General Vice-President? A. Well, I came in as a trustee in 1943, I believe, and then three years afterwards, I believe, I was elected as a vice-president.

Q. Does a vice-president obtain a salary as such unless [2230] he is assigned? A. As a vice-president?

Q. Yes, sir. A. Yes.

Q. What is that salary?

MR. THOMAS: I instruct you that you do not have to answer that question if you do not wish to.

THE WITNESS: I am not going to answer it.

By MR. FREEDMAN:

Q. May I ask why? A. Under the advice of the attorney.

Q. On the advice of your counsel? A. Yes.

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[2231] Q. Is this a copy of your latest constitution, or the latest copy of your constitution? A. I would say it is. The color of the cover is like that.

Q. Will you examine it and see whether it is a copy of the constitution? A. I see it is.

Q. Will you examine that constitution and indicate to me wherein the constitution provides for compensation for General Vice-Presidents. First of all, let me mark this [2232] Plaintiff's Exhibit 1140.

MR. FREEDMAN: That was in the pretrial deposition, so as not to confuse that exhibit number with the present numbering.

THE WITNESS: I am not interested in that, Mr. Freedman. It would take me a long time to study the constitution. I would have to go in there and read it for an hour.

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[2251] Q. Has not your General Executive Board been [2252] discussing the question of supervision which has been invoked over Local 542? A. I have no

recollection of it coming up at the Board. You refer to the Board meetings?

Q. Any of the Board meetings. A. No, I can't remember it being discussed there.

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THE WITNESS: I have no recollection of discussing it at the Board meeting.

By MR. FREEDMAN:

Q. Hasn't the Board even been notified that Local 542 is under supervision? A. Oh, that is part of the records. That becomes part of the records.

Q. Well, wasn't the Board advised of it officially? A. No, the Board—the record shows that they were—went under International supervision.

Q. Isn't the Board consulted about those things? A. Oh, they might be discussed—consulted. They have the information.

Q. Is the Board ever called upon to approve or disapprove the President's invoking supervision over any local? A. It is reported to the Board. The President, as I [2253] see it, has the authority to do that, and then report his decisions to the Board in writing.

Q. Did he report to the Board in writing regarding supervision over Local 542? A. Well, it is part of the records, of the minutes.

Q. Well, you are a member of the Board, aren't you? A. That is what I think am.

Q. Did you ever get any report from Mr. Maloney? A. I get official reports, like everybody else gets. I think we have the regular reports here.

Q. What reports are they? A. The official reports of the minutes.

Q. You have them here? A. Oh, I think the attorney has them over there. We get them, and we can get them for you.

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[2255] Q. Then the only records or reports that

you have are these documents which are entitled "Minutes of the Meeting of the General Executive Board of the International Union—" or, at least, as it has been identified as Plaintiffs' Exhibt 1104 (P121). Is that the only record? Are those the only records that you have relating to these minutes? A. Of the meetings?

Q. Yes. A. That is correct.

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[2256] Q. My next question to you, Mr. Swanson, is did Mr. Maloney ever seek the approval of the General Executive Board in invoking supervision? A. My answer would be no, that he reports his actions after it is taken place.

Q. In other words, he tells you about it—he reports, or someone reports, and the General Executive Board has no authority to act on it, is that correct? A. They approve it. They could approve it.

Q. When do they approve it? A. They would do it when they are in executive session.

Q. Did you approve of the supervision exercised over Local 542? A. I don't believe, I don't know whether—I have no recollection that it came before the Board. It is only important cases. I don't know. I can't answer that question. I have no recollection of what happened.

Q. You don't know whether you approved or disapproved that, do you? A. No, my answer would be I have no recollection. I don't remember at this time.

Q. Who made the report? A. What report?

[2257] Q. About invoking supervision over Local 542. A. I have no recollection who made the report. I just told you that, I have no recollection of the report being made.

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[2258] Q. Do you ever disapprove any of Mr. Maloney's actions? A. I don't think I had any occasion to do it, as far as I remember.

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[2265] Q. Mr. Swanson, what is your compensation from the Union?

MR. THOMAS: I object to that, and I instruct the witness that he is not under the necessity of answering that if he does not wish to.

THE WITNESS: That is—I don't think it has any bearing on this case whatsoever.

By MR. FREEDMAN:

Q. Do you refuse to answer? A. On the advice of the attorney. Not necessary.

Q. You refuse to answer? A. The answer is no. Or, rather, it is yes to your question, if that is what you want to know.

Q. Mr. Swanson, do you get a separate salary as an International Vice-President in addition to your salary as an officer of Local 3? A. Yes, that is correct. The answer is yes.

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[2272] Did you know William Carter, of the New Jersey local? A. I did. He is dead now.

Q. Did you know him well? A. Knew him very well.

Q. Was he an officer of the International Union? A. No. He was an officer in Local 825 of New Jersey.

Q. Were you friendly with him? A. Oh, yes. I am friendly with everybody.

Q. Were you in correspondence with Mr. Carter? A. I have no recollection of ever receiving a letter from Mr. Carter.

Q. Did you ever hear him make any reports to the International? A. Oh, I often met him at the meetings, at our various meetings.

Q. What meetings? [2273] A. Sir?

Q. What meetings? A. Oh, we had several meetings. I travel considerable and I met him in various places. I met him in New York. I met him in Boston.

Q. Carter, you mean? A. Sir?

Q. Carter, are you talking about now? A. Yes, I am talking about Carter. I met him in Florida.

Q. When were these meetings? A. I don't recall those meetings. I just met him and talked to him.

Q. What was the occasion? A. It might have been business. It might have been an Executive Board meeting. It might have been other meetings.

Q. Did he have any position in the International? A. Not that I know of. He might have been—I don't know whether he had a position except that he was President, I think, and manager of Local 825, and he might have been assigned to certain jobs.

Q. That is the New Jersey local, isn't it. A. New Jersey local, yes. That is all I know. Whether he had any other position or not, I am not familiar with that.

Q. And what was he doing at these meetings? [2274] A. Oh, he attended the meeings; as an officer of his local he had matters come up, and so he attended the meetings.

Q. Are you talking about Executive Board meetings? A. Yes. As a rule.

Q. Any other kind of meetings? A. I don't recollect any other—I met him occasionally. You asked me if I knew him, and I knew him very well.

Q. Yes. Did you meet him at any other kind of meetings than Executive Board meetings? A. I might have met him, but I don't recollect what it was all about.

Q. Did he attend all of the Executive Board meetings? A. Whether it was all or not—he attended many of them, most of them. I would say most of them. He was generally always there. I met him at the convention in Seattle.

Q. On other occasions than the Executive Board meetings did you meet him and talk business? A. No, we just talked probably everything but business.

Q. Did Mr. Maloney seem to rely on Mr. Carter? A. Well, I can't answer that question. That is a matter for him to answer. I don't really know.

Q. I am asking you about your own knowledge. [2275] A. Well, I think he relied on him, yes. I would say he did rely on him. So far as I know, he did.

Q. And that was in connection with matters generally? A. Well, I can't speak for Maloney. I am just guessing. I think that he had a lot of confidence in Mr. Carter. He felt about him the same as I did, and so forth. That is all I can say in regards to that.

Q. Did you know Joe Fay? A. Yes, I knew him.

Q. Did you know him when he was an officer of the Union? A. I did.

Q. Were you friendly with him? A. I was friendly with everybody. I have no enemies so far as I know. I don't specialize in making enemies. Everybody is my friend, unless they don't want to be. It has been my life, and I am going to stay with it.

Q. Fay did have a position as an International Vice-President, didn't he? A. At one time, yes.

Q. Until he went to jail? A. Sir?

Q. Until he went to jail. A. Well, yes. He was a vice-president once.

[2276] Q. Did he exert any substantial influence over the Executive Board? A. Not since I came in. I never knew him to exert any influence over the Board. Probably did when he was in, but after he was off, why, he didn't exert any influence so far as I know. He is in jail.

Q. You mean since he got in jail? A. Well, I don't know about that. So far as I know, I would say no.

Q. You mean while he was a member of the Board he exerted influence over the Board? A. Well, he was a member of the Board. He was quite a prominent man on the Board, yes.

Q. Carter was one of his supporters was he not? A. Well, Carter was the President. He became President after he was out. That is—

Q. After Fay left? A. Well, there was somebody in there between. Sheehan, is that his name? And then when he passed away Mr. Carter was elevated.

Q. I asked you whether Carter was one of Joe Fay's supporters?

THE WITNESS: I can't answer that.

[2277] THE COURT: Mr. Wolfe asked, "Do you understand what he means by supporter?"

THE WITNESS: I understood him, I guess. I think I couldn't possibly answer that question. I am three or four thousand miles away from there, and I couldn't definitely answer that question in any way. I think they were friendly, yes, if that is what you want to know.

By MR. FREEDMAN:

Q. Was Maloney friendly with Fay? A. I think he was friendly with him while he was an officer. Certainly he wasn't friendly afterwards, as I understand.

Q. You mean after he went to jail? A. Why, no, I don't think so. I can't answer that question.

Q. But so far as you know, and while he was an officer, Maloney was friendly with Fay? A. Well, he was an officer. I believe the President was friendly with everybody.

Q. I am asking you specifically about Fay. Was he friendly with Fay? A. As far as I know, he was friendly when Fay was an [2278] officer, before he had his troubles. After he went to jail, I don't suppose there is any connection there whatsoever.

Q. But you don't know that of your own knowledge, do you? A. Oh, no. I am three thousand miles away from there, Mr. Freedman.

Q. Did Maloney ever make any statements about Fay which were unfriendly? A. Well, no, not to me. Not to me.

Q. Not to the Board as a Board? A. Not that I can recollect now. Fay has been out of the picture for a long time, and it is a dead issue, and I never heard him discuss it at a Board meeting, so I would say that—

Q. You don't know whether—

THE COURT: Mr. Wolfe, "He is not finished with his answer."

A. Well, what did I say? Can you read that to me?

THE COURT: The answer was read.

THE WITNESS: —that I would say that no discussion was had in regards to Mr. Fay. That would be a— [2279] to make the long story out of an answer.

By MR. FREEDMAN:

Q. Are you able to state whether Mr. Maloney has been in touch with Mr. Fay during the period of time that he has been in jail? A. I don't know a thing about it. I can't answer that. Absolutely no.

Q. When did you first learn that there was any trouble in Local 542? A. I can't tell exactly who I heard. I am not sure but I heard it from Mr. Underwood. I can't say exactly.

Q. By the way, you have known Mr. Underwood, haven't you? A. Yes, I have known Mr. Underwood.

Q. When you say you heard it from Mr. Underwood— A. I am not sure. I don't want to be tied down to that. I don't recollect exactly where I first heard it. It might have been from Mr. Underwood.

Q. You know Mr. Underwood quite well? A. Oh, yes. I have known Mr. Underwood for some time.

Q. How was he regarded by the Board generally? A. Well, I don't know of anything wrong with the Board. I can't judge the Board.

Q. No, I say— [2280] A. I am just talking for myself.

Q. Did you hear any criticism of him by the Board? A. No, I don't know that he was discussed before the Board until that trial come up, so far as I know.

Q. Were his activities in the Union regarded as satisfactory prior to the trial? A. Well, I don't think that it was discussed. That wasn't in my line at all. I never heard that discussed.

Q. You met him at the convention, didn't you? A. Oh, yes. I met him at the convention.

Q. And Mr. Maloney was there, too? A. Oh, yes.

Q. And you met other people who knew Mr. Underwood? A. Yes, I met—

Q. Did you hear any criticism of Mr. Underwood or any of his activities? A. I did not.

Q. That was a convention when? A. Well, that is two years ago in Seattle.

Q. 1951? A. I guess that is when it was, 1951. I forget years, but the last convention we had in Seattle.

Q. Did Mr. Maloney at any time indicate any criticism— [2281] A. Not to me.

Q. —of Mr. Underwood? A. Not to me.

Q. Did you hear him make any criticism to anybody else? A. No, I didn't hear any criticism.

Q. Did you talk to Mr. McDonald about Underwood? A. I have no recollection of talking to him—you mean at the convention?

Q. Anywhere. Before the trial. A. No, only I knew that Mr. McDonald is in fairly—I can't recollect now any conversation with McDonald about 642. Right now I can't.

Q. Now, in your official capacity you became aware of the trouble in Local 542, did you not? A. Oh, yes, I knew that there was difficulty over there, trouble.

Q. Now— A. I must have known it when they served the papers.

Q. In what manner were you informed first of the trouble in 542? A. I have no recollection exactly when I heard it first. I can't remember that exactly.

Q. Did you receive any report of an investigation or [2282] anything else from the General President or any other representative of the International? A. Yes, I think we had reports in connection with Local 642.

Q. You mean 542? A. Is it 5? 542.

Q. Yes. A. I get numbers mixed up.

Q. Who sent that report out and when A. I don't know. We had the reports. I can't recollect who sent them out.

Q. Where are those reports? A. Who are they?

Q. Yes. A. I don't have any reports. I told you that in the beginning. Execpt the reports of the Executive Board meeting.

Q. I thought you said a moment ago that a report went out. A. Information. I received information—first of all, I presume that you refer to the time that the charges were preferred against Mr. Underwood. Is that what you mean?

Q. And the trouble in 542 which led to the charges. A. Well, I have nothing—I have no—much information [2283] on that. I wasn't connected with that whatsoever.

Q. Did you receive any papers or any documents regarding any of those matters? A. I don't remember now whether I did or not.

Q. If you did, where would they be? A. Well, they would probably be in the wastebasket.

Q. You mean you have no record of them now? A. We wouldn't have room enough for all the reports that comes in here. We only keep official reports that we have to keep.

Q. Wouldn't that be an official report? A. Not necessarily. Information. It might come as information.

Q. Well, did you get such— A. I have no record here now. I have looked through the desk, if there was any communication, but I have no records of any of those reports, so you will have to get them from the attorneys here. I guess they have them.

Q. Was there such a report? A. Sir?

Q. Was there a report? A. Information. I received information, yes.

Q. Information. I guess you can call it a report or [2284] anything else you want. But you say a statement or report or information went out, and you got it, is that right? A. I said that the information came to me, like it would to any other vice-president.

Q. How did it come to you, in what form? A. Well, there is many ways of communicating information.

Q. How did this information come to you? A. Well, I have no recollection just how this came.

Q. Did you receive anything in writing? A. I don't remember.

Q. Do you remember what it was that you received? A. How could I remember—

Q. I mean the substance of what it was, whether it was in writing or in oral form? A. No, right offhand, I don't.

Q. Don't you remember what the information was? A. I don't—if I remembered what the information was, I would probably remember when it came, and I don't remember now.

Q. You don't remember what? A. I don't remember what? Is that what the question asks?

Q. Yes. A. I don't know what it is. What you want to know?

[2285] Q. Are you saying you don't remember what the substance of it was, or whether it was in writing or orally? A. I tell you that I have no recollection. I don't remember when it came and what was in it. I know that the information was gathered—you get a lot of information that you don't keep tabs on. Don't you?

Q. Are you saying you did get something in writing? A. No, I am not saying that. I have no recollection. The only information I could possibly have, if I received a communication from Mr. Underwood—I know that I received some communications, but I am unable to find records of them, and they might have conveyed the information to me that he had trouble in 542, that is all, or maybe I talked to Mr. Underwood. I talked to Mr. Underwood when I was East, and he could probably give you that information. I have no recollection of anything else.

Q. You don't have any recollection of having received any information in written form or any report in your official capacity as General Vice-President?

Q. Of the trouble, of any trouble in 542. A. No, I have no recollection of that here now.

Q. Was there any meeting of the Board called at any time prior to the trial regarding the trouble in Local 542? [2286] A. Special meeting, for that purpose, you mean?

Q. Regular or special. A. Not that I know of.

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[2288] Q. Do the locals have the right to make their own contracts? A. Oh, yes, yes. They are finally approved by the General President.

Q. Can the General President dictate the terms of a contract? A. No. We send them in to him for his approval. First we negotiate an agreement and then send them in to headquarters, and he O.K.'s them.

Q. Can he request a local to take a contract which is unsatisfactory to it? A. I don't know whether he can or not, but he never done it with us.

Q. I am asking you whether he can? A. I think that is a good question. I don't think he would. I would have to answer that as far as I am concerned. I am speaking for what I know. I have no knowledge of anything else.

Q. Is it your understanding that the General President can force a local to accept a contract which is unsatisfactory to it?

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THE WITNESS: Yes, the question is if the [2289] General President can force a Union to accept an agreement, a contract don't wish, is that it?

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By MR. FREEDMAN:

Q. Do you know what the question means? A. Well, if I understand it, it means—am I to answer a question whether the President has the power to force a contract against the wishes of the local union? Is that it?

Q. That's right. A. I would say, no, except in extreme cases where it was to save the organization. It could be—that requires a large interpretation. First of all, I

don't think he would, but, second, he might have the power to save the organization or save the International. I don't think I am the proper person to make that decision.

Q. Would you say that if a strike was being carried on with very little unemployment— A. I am not familiar with the case—

Q. Just a minute. Would you say that if the strike in Local 542 area—let me rephrase that. Would you say that if the strike carried on by Local 542 from May 1, 1952, resulted in very little unemployment among its own members? A. I—

Q. Just a miniute. |2290| A. Excuse me.

Q. —that the General President would be justified in stepping in to terminate a strike? A. I am not in a position to answer that question. I feel that the one that should answer it is the General Presideent himself.

Q. Were you aware of the injunction which was obtained by the employers in the Philadelphia area in May of 1951? A. I have very little information.

Q. Do you have any information? A. Only hearsay.

Q. What information do you have? A. Well, it is the same story again, that I am not in contact with Philadelphia very much, and I had no information worthwhile that would be of any consequence here.

Q. You mean you were not informed of those circumstances? A. Well, not sufficient. It wasn't my business. I was here working, and I didn't have time to meddle into that Philadelphia situation. There are other people who were doing that.

Q. Was your advice sought in connection with International intervention?

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THE WITNESS: No. I was going to ask for an |2291| explanation.

BY MR. FREEDMAN:

Q. Intervention by the International Union.

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THE WITNESS: No. Condense it a little bit and I will try to answer it, if you will, please. So that I can answer it as I know.

MR. FREEDMAN: The question was repeated back by the reporter as follows:

"Q. Was your advice sought in connection with intervention by the International Union in the negotiations in connection with the strike between the employers and employees?"

BY MR. FREEDMAN:

Q: Do you understand that question? A. Yes, I think if I understand correct, if my advice was asked in regards to International intervening into Local 542's business, is that it?

Q. That's right. A. I would say no. My answer is no.

Q. Were you informed of the situation at all? A. No, not directly, no. I repeat again that I had several [2292] communications—I would say one or two, from Mr. Underwood, and he kept me informed somewhat to what was going on, but it is so long ago now that I don't even recall what he wrote.

Q. Didn't you receive any information from official channels? A. Not at that time, no.

Q. When did you receive information? A. Well, we had a report at the meeting.

Q. At what meeting? A. Well, the meeting right afterwards. Figure that out.

Q. After what? A. After the International—

Q. After supervision was imposed? A. Yes.

Can you state whether or not any evidence was presented to the Executive Board regarding the difficulties in Local 542 prior to the invocation of supervision? A. No, I am not familiar with that.

Q. Wasn't it incumbent on the General President to keep the Board informed? A. Well, it might be according to constitution. That provides for what, I guess, but he

has full power to act and then report back to the Vice-Presidents.

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[2308] Q. I would like very much to have your full answer regarding the constitutional provisions upon which you rely in support of your answers, one, that the constitution specifically makes provision for the compensation of General Vice-Presidents.

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By MR. FREEDMAN:

Q. And, two, the provision regarding the right of the locals to call a strike generally. Those are the two things that I have been asking you about, and if during the course of this deposition you are able to call my attention to any other onstitutional provisions, I will be very glad to have them, and to ask you questions about them. A. Will you be kind enough to write it down, and I will [2309] do the best I can.

Q. I have already repeated it several times. A. I referred to this section. Maybe you can give me the answer. In Article III, Section—

Q. I know, Mr. Swanson. I don't want to engage in any argument with you. A. I wouldn't do you any good.

Q. I am just looking for the facts here. A. "All the sovereign power, including the legislative, executive, administrative and judicial . . ." I understand sovereign power is almost supreme, as being thought—maybe I am wrong, but then that is how I interpret it. All sovereign power. I can't do no more than that. That is God Almighty. That shouldn't be in there.

Q. There is nothing off the record. A. Sovereign is big.

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[2310] Q. What did you get from the International last year in the way of expenses for these items that you have outlined?

THE COURT: That is objected to by Mr. Thomas and the objection is sustained.

Q. What is your answer, Mr. Swanson? A. My answer is I am not going to tell you, on the advice of the attorney.

Q. Do you get any other monies from the International Union?

MR. WOLFE: That is again objected to, if Your Honor please.

THE COURT: I will overrule that.

A. Any other what?

[2311] Q. Any other monies at all. First of all, you get a salary, don't you? Is that correct? A. Yes, that is correct.

Q. Then you get these expenses you just mentioned? A. I said traveling expenses.

Q. Well, whatever they are. A. Yes.

Q. Do you get anything besides that from the International Union? A. That question I can't hardly answer, because I don't know what it is leading to.

Q. What difference does it make where it is leading? You know what the facts are. A. Don't rush me, because I am not going to answer it.

Q. I haven't said a word. I am not rushing you. You take as long as you want. A. Right offhand I can't answer that question. I will have to look through the records and see if I got a—

Q. Don't you know whether you get any other compensations or any other monies from the Union? A. From the Union?

Q. From the International Union. A. I get paid by Local 3.

Q. I say from the International Union. [2312] A. I just told you, I work for salary, and if I travel I could get transportation.

Q. Now, my question simply was this, to repeat it:

Do you get any other monies than that from the International Union? A. I would say no, as I see it.

Q. Do you get any money for attending the Executive Board meetings? A. I get a salary.

Q. A special salary for that? A. No, I get a salary. I get a salary.

Q. What is the salary for that? A. Ain't that too bad.

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Q. But you do get other compensation besides those that you have mentioned? A. I have already answered the question as far as I am going to answer it.

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[2321] Q. Now, do you recall when Mr. Underwood was tried on the charges that were preferred against him? Do you recall that meeting? [2322] A. I was there.

Q. You were there? A. Yes.

Q. Was there any mention made on that day of the appeal which had been filed by the local union against the filing of supervision?

MR. WOLFE: Against the what?

By MR. FREEMAN:

Q. Against the order of supervision. A. I have no recollection now of that being mentioned. Maybe it was, but I can't remember.

Q. You knew there had been an appeal filed, didn't you? A. If you tell me, maybe—I don't recall any having been filed right now, but maybe they had.

Q. Didn't you get a copy of the appeal papers? A. I probably did, but I have no recollection now.

Q. Did you examine them? A. I have no recollection of that now.

Q. Are you able to state whether or not you received the appeal papers? A. I don't even know what time you refer to, Mr. Freedman.

Q. At the time of the trial of Mr. Underwood on the charges. A. That was on 17th of September. Was that the day you [2323] refer to?

Q. Approximately then. A. Yes, about that.

Q. Of 1952? A. Yes.

Q. Now, you knew that prior to that time an appeal had been filed by the Local Union 542 from supervision? A. I am not familiar with that at all, and I have no recollection of it. That is approximately the way—I can't recall it.

Q. Weren't you advised of it by the International Office? A. I don't know now whether I was or not, but I have no memory of that fact.

Q. Weren't you given a copy of the appeal papers? A. I probably was, but I haven't got it here.

Q. Weren't you given a copy of the answer which the local union had filed to the order of supervision? A. I can't remember now whether I did or not, to tell you the truth.

Q. Don't you have any— A. I don't recall. I can't remember.

Q. Don't you have any recollection whatever of the position which the local union had taken and of their contention? [2324] A. I wasn't involved at all.

Q. You mean you were not interested in that? A. I was interested, but I wasn't involved.

Q. You were a member of the Board, weren't you? A. Yes, I am a member of the Board.

Q. Why wasn't that appeal heard at the same time that Mr. Underwood's appeal was heard? A. I can't answer that question, because I didn't handle any part of it.

Q. Who did handle it? A. The Board handled it, I guess.

Q. You were one of the Board, weren't you? A. Yes, but I don't think it was up there—I have no recollection if it did come up. How can I answer things I don't remember?

Q. Isn't it the Board's function to schedule hearings on appeals pending before it A. It might be and might not, I don't know.

Q. Whose function is it? A. The Board. I just cited

where the Board has the power to do anything the convention can do.

Q. You were one of the Board? A. That is correct.

Q. And you would have to have knowledge of what was being [2325] done and what was scheduled and not scheduled? A. I just told you, I have no recollection. That is the best answer I can give you, because that is all I know.

Q. If you received copies of the appeal papers, would you have kept them? A. I might and I might not.

Q. I ask you to examine your records here now. You are in your own office. And see whether or not you have copies of those appeal papers. A. I would be glad to do that, but I can't do it in a minute.

Q. I will wait. How long will it take you? A. Of course, I don't keep all my files. I would have to go to my secretary and have her look it up.

Q. Will you please do it now? A. Yes. Better have a recess, then.

Q. Please do it now. We will have a recess. It is now 2:20. We will wait for you to go out and come back with your answer, and I will ask you not to confer with any one other than your secretary and those who have custody of your records. A. What is it you want, now, so I can tell her?

Q. I am asking you—the record speaks for itself—I [2326] asked you to determine whether or not you have copies of the appeal papers by the Local Union 542 against the order of supervision. A. You want to know whether I have a copy of that in this office?

Q. That's right. No, I want to know whether you have a copy. A. I will go to the secretary and find out.

Q. And while you are there, you might ask her whether you have a copy of the appeal papers filed on behalf of Mr. Underwood, too. A. I told you in the beginning that I didn't have any of those papers left that he sent. How many times do I have to say it so that—

Q. Those two appeals were taken almost simultaneously, so that all I am asking you— A. I went through the desk, asked my secretary to go through all the papers. I knew I received some letters from Mr. Underwood, but I can't keep all the letters I get here. Probably I get one hundred a day some days, and consequently I was in hopes I would find some of those letters, and I wasn't able to find any, and the secretary has been able to go through the two files and hasn't found any. Now, I am going to find out if there is any on the appeal. I will [2327] go in and see if I can find it.

MR. FREEDMAN: Let the record show that he left the office at 2:21.

(The witness left the hearing room at 2:21 p.m.)

(The witness returned to the hearing room at 2:30 p.m.)

MR. FREEDMAN: The witness returned at 2:30.

By MR. FREEDMAN:

Q. What is your answer now, Mr. Swanson? A. Answer to what, I found any records?

Q. That's right. A. I am unable to find any—any kind of records, and my secretary has spent practically all day in there. I knew that at one time I received, I would say several contracts from Mr. Underwood, and I thought I had them in there, but I can't even find them. I know that he mailed them to me.

Q. What I was specifically interested in was the appeal which had been filed on behalf of the local union against supervision, and the answer of Mr. Underwood to the charges; and you say you have no record of those at all? A. No, I have no record in this office at the present time.

[2328] Q. Well, do you keep records in any other office or any place else? A. No. We have a very large office here. We have a good many rooms. We have sixteen thousand members here, and we have a lot of record files.

We made an honest effort all day yesterday to find them. I told her to go over, and she is still working, but we haven't —it might be transferred into some other office. If we have the records, I would be tickled to death to bring them into here. And she is still looking. But she will have to go into some other office and see if they are filed away. We filed away a lot of them, stacks of records. We have one room full of records right now.

Q. Aren't the records indexed? A. Yes, but I fail to find any in connection with this case. I can't find anything.

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[2330] Q. Mr. Swanson, were you aware of the fact that Mr. Meany had interceded at the request of the employers, or on behalf of the employers in connection with the strike which was being conducted by Local 542a? A. No.

Q. You weren't aware of that? A. No.

Q. Did Mr. Maloney ever tell you? A. No.

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[2334] Q. Did Mr. Maloney at any time tell you that he didn't have any faith in Mr. McDonald? A. No, he never told me that, that I know of.

Q. Did he ever tell you, or so far as you know, any other member of the Board, that he was relying on Carter [2335] and he did not trust McDonald? A. No, I don't know what he told any other members of the Board.

Q. I said so far as you know. A. No, I don't know.

Q. And he never told you that? A. No. That is, that I can recall now. I can't remember. I don't remember all the conversations we had.

Q. Did Mr. Maloney ever tell you as an official Vice-President about information that he received from Mr. Carter? A. No, offhand I can't remember any—I don't think he discussed that with me. I was out in the West and he was East, and I guess he dealt with people there more.

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[2336] Q. Did you ever find out what the issues were in connection with the strike conducted by Local 542

leading to supervision? A. No, I would say the only thing I found out what transpired during the trial. The evidence that was presented there, that's all.

Q. What did you find out from that evidence? A. Oh, I just found out what the charges were, and I heard the trial, that's all.

Q. What were the charges? What charges are you talking about? Against the local? A. I don't know what you are asking. What charges did you refer to, the charges against Mr. Underwood?

Q. I was talking about the strike. A. Well, I don't know exactly what—what was the last question, then? So that I can correct it. Can you tell me the last question?

(The question was repeated by the reporter.)

THE WITNESS: Yes, I am asking now what you [2337] mean by the question. If I knew what the charges were against the local? Is that the question?

By MR. FREEDMAN:

Q. No, the issues which were involved in the strike. I asked you whether you knew what the issues were involved in the strike which was being carried on by Local 542 from May 1, 1952. A. No, I would say that I wasn't familiar on that, no. I was out here, and that was going on there, and whatever I got was just by hearsay mostly here.

Q. But you went East for the Executive Board meeting and for a convention— A. I was there, yes.

Q.—in September, did you not? A. Yes.

Q. Weren't you advised of those circumstances at that time? A. Well, there was a trial—is that the time you have reference to a trial? When the trial was.

Q. That's right. Underwood was tried at that time, too. A. That's right, I was at that meeting.

Q. Didn't you learn anything about the issues involved in the strike? [2338] A. I don't think that was the question there. As far as I know, there wasn't any question pertaining to a strike. I heard—the only thing

I heard there was the trial. That was the main issue there, as I remember it. The minutes will show that.

Q. Wasn't the strike involved in the trial? A. I don't think that was the issue in the trial.

Q. Wasn't it involved in the trial? A. Well, I don't know whether it was or not. I told you before that I am not familiar with the strike. I heard—I had some statement made from Mr. Underwood in regard to that, I think, and other people. That is all I knew. I wasn't there. I was at the trial, however.

Q. Well, I am talking about the trial. A. Sir?

Q. I am talking about the trial. I am talking about the information which was introduced in the trial. A. The only thing I recall about the trial was there were certain charges preferred, and they were hearing the charges. I don't recall any matter pertaining to a strike: I think it was—the charges were preferred against—Carter preferred charges against Mr. Underwood, and we were hearing the case.

[2339] Q. Well, wasn't there a strike tied in with the charges? A. Maybe there was, but we didn't hear anything about that, to speak of. There might have been—I don't recall that being brought up. That was not the issue in the hearing. That might have been a side issue there.

Q. You paid no attention to that? A. Oh, I pay attention to everything that I can.

Q. Don't you have any recollection of it? A. I say I don't recall that at all. I do recall about the trial. That is, a reasonable memory of that.

Q. Do you recall the report, or any report which might have been made by Mr. Maloney regarding his order invoking supervision over Local 542? A. Right now I can't recall of a report at that meeting. There might have been, but I don't have any recollection.

Q. Do you recall the basis upon which he invoked his order, or at least the basis upon which he said he invoked his order? A. No, I just told you that I have no recol-

lection of it now. How can I remember that? If I remember it, I would tell you.

Q. Was the appeal of the Local Union 542 from supervision ever up before the Board? [2340] A. I don't remember. I don't think—I don't remember. I don't think so. Maybe it was, but I can't—

Q. Did you attend the meeting in Miami? A. I attended every meeting for several years.

Q. Was it brought up then? Was it brought up at the meeting in Miami? A. I wonder if the record would show that.

Q. No, I am asking about your recollection. A. I am telling you that I don't remember. I would like to have refreshed my memory by reading the records. I can't remember all those things. Maybe you can, but I can't. I would like to have my memory refreshed by certain records, and then I can tell you everything that I know. If you have the records there and cited them to me, that would refresh my memory, and perhaps I could give you the answer I want.

Q. But you have no independent recollection at this time? A. Not at this time.

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[2355] Q. Mr. Swanson, what are your views regarding supervision? Do you feel that the power of supervision should be invoked only in emergency cases? A. That is correct.

Q. And don't you feel that supervision should not be imposed until a full investigation and hearing has been held? A. That is correct.

Q. Do you know whether there was a hearing and an investigation of the circumstances before Mr. Maloney invoked supervision over Local 542 in August of 1952? A. My answer to that would be there must have been a hearing.

Q. Well, I ask you whether you know of your own knowledge? A. Well, I wasn't there myself, but I believe that there was.

Q. You believe he wouldn't invoke supervision without first giving them a hearing? A. Yes.

Q. That is what you believe? A. That is my belief.

Q. Mr. McDonald was in an excellent position to report on 542, was he not, Mr. Swanson? [2356] A. If he was in an excellent position to report?

Q. Yes. He was in position to know the circumstances relating to 542, was he not? A. Well, I would say he was on the job, probably was. I wouldn't be in a position to say one way or the other, but he was on the job and should have been.

Q. Do you know whether he ever made any report to the Board regarding the circumstances leading to supervision? A. I think he made his report to the General President.

Q. Did he ever make any report to the Board? A. Not that I recall now, no.

Q. Did he ever discuss it with you? A. No, he didn't. Not that I can recall.

Q. Now, when did you first hear of the charges against Underwood, Mr. Swanson? A. Oh, I can't recall exactly just when I heard it the first time now. I don't remember when I first heard it.

Q. Do you recall from whom you heard about the charges? A. No, if I knew—I can't answer that question, because my memory isn't good enough to remember.

Q. Did you have any knowledge of the charges, or that charges had been preferred prior to the time of the hearing which was held in New York in September of 1952? A. Oh, I had some information prior to that. I think I [2357] received some information from Mr. Underwood.

Q. Did you get any other information? A. Well, I guess I did, but right off I can't recall. It was probably discussed amongst the people, where I was.

Q. What information did you get from Mr. Underwood? A. Well, I was trying to get his letters. If he had them here, I would be very happy to have them read. I

can't locate them. And the information was his idea of what was going on there and so forth. It covered considerable territory. I can't tell you exactly what the letters contained. But I have been trying all day to try to locate them. Probably he has one, to give you the information. General information.

Q. I just want to know what you recall, Mr. Swanson. A. No, right now I can't recall exactly what the letters contained. I think one or two letters contained contracts, if I am not mistaken.

Q. Contract with the independent contractors? A. Proposed contracts between Local 542 and contractors.

Q. Do you remember some of the outstanding features of those contracts? A. No, I wouldn't remember that, but I know he was good enough to send me the copies of them, that's all.

Q. Do you remember one of the contracts which they were [2358] urging contained a safety code and a pension plan? A. I know it said something about pensions, but if my memory serves me right, they were having a lot of difficulty about pensions at the time.

Q. Do you approve of the pension plan? A. I approve of a pension plan, yes.

Q. I mean for the men in your Union. A. I believe that.

Q. Have you been advocating one? A. All my life. That is, since I have found out we could get one.

Q. And are the officers of the International Union under a pension plan? A. They are.

Q. Was it the feeling of the Union generally to press for pension plans? A. I think that is true. That is, in this locality, at least.

Q. What about the International Union? Wasn't it advocating a pension plan? A. Well, I think it was in favor of it wherever it could be brought about. I think that is true.

Q. What about a safety code? Was that advocated by

the International Union, too? [2359] A. Well, they favor all safety codes that is possible, because we have a very dangerous occupation, and we are much in favor of all the safeties as possible.

Q. A safety code with teeth in it? A. Yes, we are much in favor of that.

Q. Do you feel the safety code should have teeth in it? A. Yes, and plenty of them.

Q. Would you think that it was unreasonable if your local were to insist on a pension plan and a safety code as part of their demands against the contractors? A. No, because we already have that.

Q. Have you got them in your Union? A. We have a pension plan.

Q. You have got a pension plan in your Union? A. Yes. A Welfare Plan. You refer to a Welfare Plan. I am talking about a Welfare Plan.

Q. Yes, and a pension plan. A. Well, no, we have no pension plan except in one branch, but our International has a pension plan. I am referring now to a Welfare Plan that we, in fact, have all our people practically now covered by a Welfare Plan.

Q. I am talking about a pension plan. A. A pension plan, I am not so familiar with that as I am with the Welfare Plan. I was referring to a Welfare Plan [2360] when you started this.

Q. I see. Let's go back, then, and retrace our steps. A. Go ahead.

Q. Do you advocate a pension plan? A. Well, I am in favor of a pension plan if it could be brought about, but primarily our people are more interested in the Welfare Plan.

Q. I see. Now, in the International Union, does it advocate a pension plan? A. Well, they are doing everything they can to bring one about as quick as possible. They already have a Welfare Plan for the officers.

Q. The International officers are covered by the pen-

sion plan? A. Yes. Not only the officers, but the employees, they are all covered by a pension plan.

Q. Did you receive a copy of the charges which were filed or preferred against Mr. Underwood? A. Oh, I think I did. I must have received it.

Q. When did you get it? A. Well, I think it was shortly after they were—if my memory is right, about the time that the charges were preferred.

Q. From whom did you get it? A. Well, it was sent out from the General Office. I don't [2361] know.

Q. With an accompanying letter? A. No, I don't recall that there was a letter. It was sent out.

Q. Do you have those charges here? A. No, I have no record of anything.

Q. What happened to the charges? A. Your guess is as good as mine. I don't know what happened to all the stuff we clean out here from time to time. Burnt up, I guess, because we have no use for it after we have studied it and read it. Haven't got enough room here to pile it all in.

Q. You have got a big building here. A. Yes.

Q. Does this Union own this building? A. Yes, it owns this and five more.

Q. How big is this building? A. Well, your guess is as good as mine.

Q. How many stories? A. It is only two stories. There is a basement, a main floor, and this floor.

Q. And your Union occupies this? A. Yes, sir, and others. We don't occupy the whole building. Downstairs, we have several teamsters organizations [2362] down there. We also have a Welfare Plan downstairs.

Q. When you got the charges, did you get any information about the charges? A. No, I told you I don't recall if there was a letter with it or not. I can't recall that.

Q. Were you advised when the hearing on the charges would be held? A. Oh, at the Board meeting. We always know when the Board meetings—the President sent out a

statement when the Board meetings will be held, according to the constitution.

Q. Did you discuss the charges with anyone before the hearing? A. No, I don't think I did. In a general way I might have talked to somebody, but I—

Q. You met the other Vice-Presidents? A. Vice-Presidents, yes, sure.

Q. And you met other people. You were in the hotel for how many days before the hearing was held? A. Oh, I just get there the day before and leave the day it is through. I guess I got there the day before. I think the meeting was held—

Q. There was a convention going on then, wasn't there? A. Seventeenth. No, that was the time in New York. Yes, I think there was a convention.

[2363] Q. So how many days were you there before the hearing, the trial? A. Well I would have to refer to my records for that.

Q. It was at least several days, wasn't it? A. I am not so sure. I can get those records. I think it was probably —I can't say definitely. It must have been a few days before, five, six. I don't think it was over that.

Q. In any event, during that period did you not discuss the case of Mr. Underwood with the other members of the Union? A. With the other Vice-Presidents, you mean?

Q. Whom else did you discuss it with? A. Well, I don't recall. I guess we talked about it.

Q. It was a topic of general conversation, wasn't it? A. Oh, no, I wouldn't say so. It was probably with the Vice-Presidents, but our business is probably kept to itself. We don't advertise to the others that there is any trouble. Discuss it with the Vice-Presidents.

Q. There were other members there, too, were there not? A. Yes.

Q. Carter was there? A. Oh, yes, at the seventeenth he was there. If you refer to the records, all our names are there, Twenty-five, thirty, I believe.

Q. Do you remember Mr. Halloran? [2364] A. Mr. who?

Q. Halloran. A. No, no, not offhand.

Q. You don't know him? A. Henry?

Q. No. Harry R. Halloran. Didn't you meet him while he was there? A. Well, I can't place him. Is he a member of 542?

Q. No. Very well, if you don't remember him. A. I don't, offhand, no.

Q. At least so far as I know, he isn't. Now, who all did you discuss Underwood's case with, if you remember? A. I don't remember. I think we just talked casually about the case coming up. I might have discussed it with Mr. Underwood, but I don't remember exactly now. I don't remember.

Q. Well, was Mr. Maloney there? A. Oh, yes, Mr. Maloney was there.

Q. Wasn't he talking about it, too? A. Well, not a great deal. He was kind of busy. I recall now that the A. F. of L. meeting, I guess, was there, and he was pretty busy.

Q. But you did talk to him from time to time, did you not? A. Oh, I always talk to the President when he is around. [2365] Generally a pretty busy man.

Q. Did he feel very kindly toward Mr. Underwood at that time? A. Well, he never said anything to me one way or the other. I think he left that for the Vice-Presidents to judge for themselves. At least, he didn't say anything to me.

Q. Didn't you know how Mr. Maloney felt about Mr. Underwood at that time? A. You mean at this hearing?

Q. That's right. Before the hearing. A. Well, he didn't say one thing or the other. I guess he felt—he didn't feel any too good about being—about it, but he never discussed with me any part of it.

Q. You didn't even discuss the charges with Maloney prior to the hearing? A. No, not as I recall.

Q. Didn't talk to him about it at all? A. Oh, yes, we might have talked about it.

Q. What did he say about it? A. Well, I just told you that I don't remember exact words what he said. It wasn't—I personally didn't discuss it with Mr. Maloney that I recall. I might have discussed it with some of the Vice-Presidents around there and other [2366] members, but as far as he was concerned I didn't, that I recall now.

Q. Was Maloney in favor of Underwood? A. At that time?

Q. Yes.

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THE WITNESS: Well, no, I don't understand what it means. I wouldn't be in a position to answer whether he was in favor of him or not. I know there was a time when they were very friendly, extremely friendly.

By MR. FREEDMAN:

Q. How about at that time? A. Well, I can't answer for him. I think he will have to answer that.

Q. Well, from appearances at that time. A. Oh, it didn't appear that they could be too friendly. That is my feeling. I want to say, however, whether it is off record or not, that there was a time they were extremely friendly. Previous to that.

Q. But that friendliness was gone at the time preceding this hearing, is that right? A. That what?

Q. That friendliness was gone on the occasion preceding this hearing? [2367] A. It would appear to be that way. That is just my opinion. I will let him decide that.

Q. Was there anybody at the time there who was talking about the Underwood case among the members of your Board or anyone else in your Union? A. Well, I can't answer that exactly. They might have discussed it amongst themselves. I wasn't all over. I had—I don't recall—I think

I heard it discussed. I wouldn't deny that, but where and when, it was the general talk of some of the Vice-Presidents, but I don't recall what was said and so forth, because first of all I don't remember exactly what might have been said.

Q. Now, when did the hearing start? A. On the seventeenth.

Q. Of September? A. Yes, I think that is—I get that record from the book there, the seventeenth.

Q. Prior to the time the hearing started— A. I think it was the seventeenth—oh. Sir?

Q. Prior to the time the hearing started, what was your view of the charges against Mr. Underwood? A. Oh, prior to the hearing or prior to the charges?

Q. Prior to the hearing. After the charges were filed. A. I had nothing against Mr. Underwood up to the time that [2368] the charges were preferred against him. He was very friendly.

Q. You had had some discussions? A. With him?

Q. Yes. What were your views regarding the charges? A. I think any discussions I had with Mr. Underwood was friendly.

Q. Well, now— A. Extremely friendly.

Q. —discussions you might have had with others regarding the charges. What were your views regarding those charges? A. I didn't discuss the question with anybody so far as Mr. Underwood was concerned. I probably knew Underwood at that time as well as the rest.

Q. You mean you didn't discuss the charges filed against Mr. Underwood with anybody prior to the hearing? A. Yes, I might have talked about it, but I misunderstood your question. What my feeling was towards Mr. Underwood, is that what you want to know?

Q. No, I asked you—I think you have said that you did discuss the charges with others prior to the hearing. A. Well, naturally, would talk about it.

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[2135] Q. Now, did you attend that so-called hearing in Washington after you invoked supervision? A. No, sir.

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[2139] Q. You say that Mr. Carter presided at that meeting. Let us call it a meeting. A. I understand. That is my impression.

Q. Who designated Mr. Carter to preside? A. I did.

Q. When? A. Sometime before the meeting, I don't know the exact date.

Q. Why did you pick Mr. Carter? A. Because I thought he was the best man on this situation.

Q. Even though he had already placed charges against Underwood? A. I don't believe that any charges were placed at that time. Maybe I am mistaken.

Q. You know that he was at odds with Underwood and the Local, didn't you? A. I didn't know he was at odds with them at any time, no.

Q. You knew that there had been considerable friction between Underwood and Carter, didn't you? A. There is always that when you try to settle anything. [2140] There is always one side claiming they got a little friction. That don't necessarily mean they are at odds with one another.

Q. You said before that Carter had been reporting to you about dissension in the Local for two or three years, didn't you? A. Yes, he did, about different things that happened at the meeting.

Q. And you felt that despite his feeling toward the Local he was the best man to preside? A. That's right. He didn't have any animosity against the Local Union.

Q. Why didn't you put in McDonald, who was the International vice-president? A. I didn't want him.

Q. Why didn't you want him? A. Because I didn't want him. I didn't think he was the man. I pick the men for my best judgment.

Q. What function did Mr. Thomas serve at that meet-

ing? A. You will have to ask Mr. Thomas. I wasn't at the meeting.

Q. Didn't you assign him? A. I did not.

Q. You don't know what part he played? A. I don't know. I wasn't there.

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[2369] Q. All right. What was your view regarding those charges so far as Underwood was concerned? A. Well, I only had—I got my views set after—during the trial, as to the evidence produced there. That is where I got my opinion from and views, from what took place during the hearing.

Q. Now, let us talk about that. A. That is all right with me.

Q. Who was present at the hearing? [2370] A. Well, the entire Board was present and many more, whose names I can't recall exactly, but they are in the book there. Mr. Carter was there. I think Mr. Underwood was there, and seven, eight of his associates, whose names I can't recall at this time.

Q. Who presided? A. Mr. Delaney presided.

Q. And how did he happen to preside? A. Well, the President said he was involved in it, and he didn't want to have anything to do with it, so he relinquished the chair to a Vice-President.

Q. Why should it be Mr. Delaney? A. Well, that is up to—I have no way of reading Mr. Maloney's mind.

Q. Wasn't it up to the Board to determine? A. No, it is—we don't question that. If the President requests any Vice-President to sit in, they generally comply with his request.

Q. Who is the first General Vice-President? A. We have Mr. Welsh.

Q. From where? A. Up at Boston.

Q. And who is second? A. I think that is John McDonald, isn't it?

[2371] Q. No, McDonald is third. A. He is third.

Q. Who is the second? A. Let's see. It is Emhart—Imhahn, isn't that it? We paid so little attention to these numbers.

Q. And McDonald is third. What else? A. I am way down the list. I am sixth.

Q. Where is Delaney? A. Delaney must be fifth, isn't he? Either fourth or fifth. I plead ignorance, because I pay so little attention to numbers.

Q. Didn't the Board take any action in selecting their own chairman when Mr. Maloney stepped out? A. No, they didn't. In fact, I don't recall that question ever raised at any time.

Q. Nobody questioned it, you mean? A. When the President decided to step down, why, he has, I presume, usually pick the one that is nearest to him. I don't know just exactly. I am unable to answer the question.

Q. Who was it who picked Delaney? A. Well, Maloney, as far as I know. The President picked him.

Q. Was counsel for the Union there? A. Sir?

[2372] Q. Was counsel for the Union there? A. Counsel—no, we had—the counsel, Mr. Thomas, was there as a witness and as a member of the Local 18.

Q. Was he there? A. Yes; he was there.

Q. And he is your general counsel, is he not? A. Yes.

Q. Did he participate in the trial? A. No, he was there as a witness. In fact, he was the first witness, that I recall.

Q. What did Mr. Thomas do? A. What did he do?

Q. Yes. You say he was a witness. A. Yes.

Q. What was he a witness for? A. For?

Q. Yes. I mean what evidence did he give? A. I think he was a witness against Mr. Underwood, if I am right there.

Q. Yes. What evidence did he give? A. Well, he testified to the charges and so forth.

Q. What other evidence did he give? A. Well, that's all.

Q. Did he make— [2373] A. You want me to tell you exactly what he said?

Q. As closely as you can remember. A. Well, first, the charges were read, and then I believe that Mr. Thomas was called as a witness, and he—I think he stated something in connection with the case, that Underwood had accused the General President of defamatory language and so forth, and that he had—and that the matter had been even published in the papers; that Mr. Underwood had withdrawn it with prejudism and so forth. I don't recall, something along those lines, I guess.

Q. Anything else you can remember? A. Not right now.

Q. Do you remember what he meant when he said withdrawn with prejudice? Do you remember what he was talking about? A. Well, he had drawn the case.

Q. The lawsuit? A. The charges, the case. As I understand, from the case. The case had been filed, and it was withdrawn with prejudice.

Q. Did he tell you that the International Union was a party to that stipulation withdrawing with prejudice? A. I don't recall him saying that, but he might have.

Q. And what significance did he attach to withdrawing it with prejudice? A. Well, I don't recall what significance he attached to it [2374] now. I don't recall that.

Q. What else did he testify to, if you reemember? A. Well, that is all I can recall exactly, now. Word for word, I don't know.

Q. In other words, from what you said, all that Mr. Thomas did was simply to state that the lawsuit had been brought, and that it had been withdrawn with prejudice. Is that about what you are saying? A. Well, that is part of what he said, yes.

Q. Can you remember anything else? A. Not right now.

Q. Did Mr. Thomas make his position clear, so far as the guilt or innocence of Mr. Underwood? A. No, I

think he asked the questions—answered questions. I don't think there was a question of the guilt involved.

Q. What questions was he asked, and what were his answers? A. Well, that is all I recall, I told you now.

Q. You don't remember any questions? A. No, I don't remember.

Q. Didn't he express his views regarding the guilt or innocence of Mr. Underwood? A. In regards to Mr. Underwood?

Q. Yes. He was the man on trial, wasn't he? A. I don't think—he testified but a very short time. I [2375] don't recall him making any statement in regards to Underwood, except just the charges, and that's all.

Q. Didn't he make it clear to the Board that Mr. Underwood should be convicted? A. I don't recall anything like that. He was just a witness there at that time. I don't recall. He might have, but I don't remember if he did.

Q. Was Mr. Underwood given counsel? A. If he was given a counsel?

Q. Was Mr. Underwood permitted the right to have counsel at that meeting? A. Yes, he had a right to have any counsel, as long as he was a member of the International.

Q. Did Mr. Underwood at that meeting ask for an attorney? A. He did, so far as I remember.

Q. And what was the ruling? A. I think he asked for Mr. Freedman, if I am not mistaken.

Q. Yes. And what was the ruling? A. I think the ruling was it was against the constitution to have outside attorneys appear there. They had to be members of the International.

[2380] Q. Mr. Swanson, how frequently did the Executive Board try any other individuals, or on what other occasions that you know of did the Executive Board conduct trials of other individuals? A. Oh, the records would indicate to show what trials there were.

Q. Do you have any recollection of them? A. No, not very many. I don't think—you asked how frequent. There are not very many trials held.

Q. I am asking you to tell me whether or not you have any recollection of any other trials conducted by the General Executive Board? A. There have been other trials, but I have no recollection of what transpired at each and every trial, if that is what you wanted me to answer that.

Q. When was the last one prior to the Underwood case? A. I say I can't recall when that was. I would have to read the records.

Q. Do you remember who was tried before Underwood? A. No, I don't, right offhand I don't. I don't specialize in trials, myself; if I read the records I would be able to tell you, but I don't. The records should speak for themselves.

[2381] Q. Well, now, let us start at the beginning, and I would like you to tell me what happened in that trial from the time Mr. Delaney opened the session to the time it was concluded. A. You want to know everything that happened?

Q. That's right, everything that was said. A. You want to know everything that I remember, is that it?

Q. Well, that is all that I can ask you, and that is what I am asking you. A. Well, first, I have already told you that Mr. Thomas was the first witness. First we had—Mr. Delaney was in the chair. The charges were read. The first witness was called, Mr. Thomas.

Q. Who read the charges? A. I think the Secretary. I am not saying for sure.

Q. O.K. Go ahead. A. I think Mr. Gramling read it. I am not sure of that, but I know they were read, because—and then after Mr. Thomas testified, Maloney testified.

Q. Now, what did he say? A. Well, he denied that the accusation—he said it was all untrue, the statements were not facts.

Q. What statement? [2382] A. That Mr. Underwood had made in his—had filed against him, the case the charges against, the accusation that he was tried for, asked.

Q. That Underwood had filed against him? A. Well, the charges against, the accusation that he was tried for. Mr. Underwood was tried for certain reasons, and he had made in his complaint—he had charged the President of many things.

Q. What, do you remember? A. Well, the record shows them. The record shows. And the President said they were untruthful.

Q. Did he relate what they were, and did he deny them specifically? A. Read them. You have got them there.

Q. I am asking you what he said? A. I just told you he said they were untruthful. They were not facts.

Q. What did he say were untrue? A. I am just telling you that. That is what he said. He just testified a very short time. He was asked several questions by certain groups. Cross-examined by them. And that was all there was to it, so far as he was concerned. He left the chair, and I don't know whether he left the [2383] room or not. He set back there some place. Then after that—you want to know all of it?

Q. Yes. A. Then after—

Q. What else did Mr. Maloney do? A. Let me tell you the story. Then after Maloney got through, then—after he had been cross-examined, then several members of Mr. Underwood's group made certain statements. I don't recall their names.

And then Mr. Underwood took the floor. He had a large package of papers, and he said—he says, "All this has been read by the Board." He says, "There is no use for me to read that now," he said.

And he says—he made, I would say he talked ten, fifteen minutes, something like that. And then he was asked by the President if he had anything else to say.

"No," he says. He says, "There is no use for me to read these papers," he says, "you have all read it." He says, "That is my case."

And he was asked by Delaney, "Have you anything else?"

"No," he says.

"Well," he says, "are you satisfied you have had a fair trial?"

[2384] And Mr. Underwood said, "Yes."

That is the only thing that I remember of it. That was the only thing that really transpired.

Q. These things you remember very clearly, don't you? A. Oh, yes. I remember those statements.

Q. Anything else you remember? A. Right off, I can't remember much of it. I didn't take any notes. I just set there and listened to it.

Q. Did you examine the answer which Mr. Underwood filed? A. Oh, I read them.

Q. To the charges. A. I read them.

Q. Did you consider them serious? A. Oh, yes, I did. I consider everything seriously.

Q. Do you remember what that answer contained?

A. No. I think you have a copy here, counsel gave it to you, but I don't remember all that, no.

Q. Did Mr. Maloney answer each and every one of those charges specifically— A. No—

Q. —or the charges in the answer? A. I don't think he was asked the question—I don't know—I don't think—every charge—I am not sure [2385] he did. I don't recollect what happened. He was on the witness stand. He was just testifying. He was asked questions.

Q. Did anybody on the Board ask him any questions? A. I know I didn't, but anybody could have asked him questions.

Q. But did anybody on the Board ask him questions? A. I wouldn't say. I didn't, I don't know what anybody did or not, but anybody could ask him questions.

Q. I am asking you whether any member of the Board asked him questions? A. I told you I don't remember whether they did or not. I have no recollection. I know that certain members of Mr. Underwood's people asked him questions.

Q. You remember they asked him some questions, but you don't remember whether any member of the Board did? A. Yes.

Q. At the time you read the answer to the charges filed by Mr. Underwood, you had that in front of you as Mr. Maloney was talking, is that right? A. Oh, I don't know what I had in front of me.

Q. You had them in your pocket, or you had them in your possession? A. I don't know. I had read it.

[2386] Q. Didn't you consider it important to ask Mr. Maloney specific questions about them, to find out if anything in there was true or not true? A. I don't know that is anything in this case here. What I considered most important, since you asked me the question, is there was no contradiction of what the charges were. Nobody denied them. Mr. Underwood said that he had signed these charges and there they stood. What could you do? You had no choice. He admitted right there that he had signed it, that his signature is on there, and it is still there. What else could I do?

Q. So that no matter how much justification there might have been as outlined in the answer, so far as you were concerned, you were going to render a verdict of guilty so long as he signed the complaint? A. Well, unless he denied them. Then there would have been some reason for it. He never denied they were his charges. He signed his name on it. What could you do?

Q. Well, didn't you want to inquire to find out whether the charges were justified? Didn't that make any difference to you? A. I thought that was his job, to justify them. He might have said something about some attorney wrote them, but he signed it, he said. What could I do?

[2387] Q. Was it your position that he had to disprove the charges? A. No, they had proved them first. And then he answered it, but he didn't answer the charges, because he admitted it.

Q. I take it, then, the only thing you considered was the fact that he signed a complaint against the International Union putting it into court, and that was sufficient? A. No, I considered that he had violated his obligation to the International when he filed charges against the President as he did. He did not exhaust all his remedies in the Union first before he went into court. We in the Union feel that they should do that, that they should exhaust the remedies in the Union and then go to the court, and then file it up there, but just to do the first thing first.

Q. Was that the reason for your decision? A. I have already told you my decision—the reason for my decision, that it was never denied. What else could I do? I would like to ask you a question: What would you do?

Q. You are the one who has to answer the questions. A. I appreciate that.

Q. Maybe on some other occasion you will have the opportunity. A. No.

[2388] Q. We are trying to find out the facts. A. I am giving it to you here.

Q. I take it, then, that the reason you found him guilty was because you found that he had brought this lawsuit against the International without first exhausting his remedies inside the Union, is that right? A. I think that is one—

* * * * * * *

[2389] Q. Do you want to answer that question, please, Mr. Swanson? A. Yes, that is one of the reasons. You did not deny any of the charges. And there was no choice but to find him guilty, so far as I was concerned.

Q. You say that was one of the reasons. What were the other reasons? A. Well, that was the prime reason—that first he had—if he did not deny of the charges, and the charges was contrary to our constitution, that is all

that was needed. He didn't deny them. He admitted that he had, that those was all charges—

Q. He admitted what? A. He admitted he signed the charges.

Q. He admitted he had signed the charges? A. Yes, it was his—

Q. I don't understand. He admitted he had signed what charges? A. Accusation of the president. Accused him of wrongdoing, [2390] of everything that is bad. I guess that is the proper word.

Q. Let me try to help you out, Mr. Swanson—

* * * * * * * *

THE WITNESS: Mr. Freedman, so that I am distinctly understood, what I refer to here in my way —when I refer to charges, I refer to the case filed against International by Mr. Underwood wherein he charged the President with a lot of defamatory and wrongful acts. That is the case that I referred to all the time.

If I misunderstood you and did not so answer [2391] the questions, I want to correct it now, that that is what I term charges. And you don't need no attorney to tell me about that, either. I want to know just what it is about. That is all I have to say.

By MR. FREEDMAN:

Q. Are you all through? A. I am through. That is, if you are.

Q. Well, I did not expect anything else, after that explanation. A. The answer was the same. It was just a matter of interpretation.

Q. Well, now, perhaps we can get just as clear an answer from you on the basis—or, regarding the basis for the conviction. I asked you before—strike that out, and let me rephrase it, please.

Is it not true, then, Mr. Swanson, that Mr. Underwood was found guilty simply because he signed that complaint? Is that right? A. That is not correct entirely, no.

Q. Well, what is correct? A. It is correct that he had accused the General President of certain things that were wrongful, and that—

Q. You mean in the complaints? A. And that he had gone to court contrary to the [2392] constitution, and that he instead of exhausting all his remedies in the Union, he jumped by that and went to court and accused the President of doing everything that wasn't right. That is about the nearest word that I can get.

Q. I just want to be sure I understand the basis for your own conclusion. You say that you found him guilty because he signed the complaint and he did not exhaust the administrative remedies in the Union, is that right? A. That is one of them.

Q. What else do you have? That is two of them, isn't it? A. All right. So we get this very clear. I want to get it clear in my mind, so that I know what—when Mr. Underwood testified after the charges had been the occasion—witness had testified against. He got up then. He was the last witness, I remember now, and he admitted everything that was in there.

Q. Everything in the complaint? A. Well, he admitted what he was charged with. He admitted all that.

Q. What did he admit, specifically? A. He admitted that he had done these things that I am saying. He had accused the President of all kind of defamatory things, and that he was a crook, and everything, in other words. [2393] And then instead of airing his case in the Union of the International, he jumps over and goes to the courts before he exhausts his remedy as in the constitution. He violated the constitution.

Q. When you say he admitted it, you mean by that that he by signing the complaint admitted it? A. No, he did not deny it on the floor. I didn't hear him deny it.

Q. Well, now, what are some of these things you are talking about? You say he called, one of the terms, he called Maloney a crook? A. Well, I said he used a lot of

defamatory—I wish you would get that petition up and read it.

Q. Did you read it at that time? A. Yes, sure, I read it.

Q. Didn't you regard it as a rather serious complaint? A. When he charged the President?

Q. Yes. A. Yes, I should say I did.

Q. When Maloney was on his feet, why didn't you ask him about those charges? A. I think the President spoke for himself. He denied the charges that Mr. Underwood had filed against him. He denied those charges, and Mr. Underwood's people asked [2394] Maloney questions; and he answered the questions. They made certain statements.

Q. Did he take any individual allegation and deny it? A. No, I don't know that he did that.

Q. How did he deny it? How did he make his denial? A. Well, stated they were not true, they were not facts.

Q. You mean he just said that the complaint was false? A. That is correct. That is one of them.

Q. And that is as far as he went? A. I didn't say that is as far as he went. I said that is one of them.

Q. How far did he go? A. Well, I haven't—I don't have recollection of everything that was said here. I think the minutes speak for itself pretty much. It satisfied the Board, and there is no question in the Board any more. It was a one-sided affair.

Q. One of the things that was said was that Mr. Maloney conspired with Mr. McGrath. Do you recall that? A. No, no, I didn't hear that.

Q. You don't recall that? A. No.

Q. Did Mr. Maloney deny that he talked to Mr. McGrath? A. Well, I didn't hear anything like that. If that was discussed there, it went over me, or I have no recollection [2395] now. I can't recall that at this hearing. You are now talking about when the hearing was going on?

Q. We have been talking about that all of this time.

Isn't that your impression? A. Yes. As far as this case—

Q. You remember some of these other things very specifically and distinctly. How come you can't remember the things which are really important and which would have a great bearing in your judgment, according to your testimony? A. I have a fairly good memory at the time. It depends upon what the occasion might be. I don't remember anything that is not important. As a rule I remember very important things that happen in life.

Q. Don't you remember that one of the allegations of the complaint was that Mr. Maloney conspired with Mr. Halloran and Mr. McGrath? A. No, I don't remember that?

Q. You don't remember that? A. No.

Q. Don't you think that was serious? A. It would have been serious if it was a fact, yes.

Q. Well, now, why didn't you ask Mr. Maloney if it was a fact? A. I didn't consider at the time that it was necessary to [2396] ask him. He had denied all the charges, and consequently, that cleared that matter up.

Q. Would it have made any difference in your judgment if you knew he had conferred in his office with Mr. Halloran and Mr. McGrath? A. Oh, it might, yes, if I had known that he had done something wrongful, yes, I should say it would.

Q. Would it have made any difference to you if you had known that Mr. McGrath and Mr. Halloran came to see him and talked to him about this without Mr. Underwood or the local knowing anything about it? A. I don't know anything about that.

Q. If I were to tell you it is true, would it have made any difference in your judgment? A. Well, I couldn't accept that as a fact from you.

Q. Well, assume for the moment that it was a fact. Would it have made a difference? A. It would have made a lot of difference if it was a fact, but I cannot accept it from the attorney on the other side.

Q. I am posing a hypothetical question, assuming it is true, would it have made a difference in your judgment? A. It would have made a difference if there was anything done that was not right, it would have made a lot of [2397] difference in my mind, absolutely.

Q. These things were set forth in the complaint. A. Yes.

Q. Why didn't you ask Mr. Maloney about them specifically: Did you meet with Halloran, and did you meet with McGrath? A. No.

Q. Why didn't you ask him that? A. No.

Q. Did you ask him that? A. Just a minute. Don't get excited. I am guided in my own conscience and my own mind when I hear evidence, and I am guided by that entirely, and—

Q. Well—

MR. WOLF: Just let the witness finish the answer.

By MR. FREEDMAN:

Q. Did you want to finish? A. That is the only way I can determine anything in life. I hear the evidence, and then I weigh it carefully and then I decide.

Q. That is just what I am talking about. You wanted to know all the evidence, didn't you? A. I always seek all information I possibly can of importance.

[2398] Q. Why didn't you ask Mr. Maloney while he was testifying or giving his statement whether he did meet with McGrath and Halloran? A. Well, I will answer your point. I wasn't on trial, but Mr. Underwood was on trial, and he was the one that should ask those questions, not myself. I wasn't cross-examining our own President, because I don't think that was a legal way to do it—proper way to do it. I think that should have come from the other side. Don't you think so?

Q. You think it should have been brought out? A. I think that the opposition, they felt they had a justifiable case, they should have brought it up then. There were six,

seven or nine people sitting there, and they were all open-minded.

Q. But no lawyer for Mr. Underwood. A. Well, I am just—he could have had—the only lawyer that the other people had was a member of our Union. But that isn't something that I want to discuss with you, whether there was a lawyer. That was the constitution. That was in the constitution laid down by the membership. Whether it is right or wrong, I am not even going to agree to that.

[2399] Q. Did you know that Mr. Maloney had been relying on Carter from 1948 to the latter part of 1952? A. No, I didn't know it.

Q. And that he distrusted McDonald? A. I did not know that. I don't know it yet.

Q. Would it have made any difference in your judgment if I told you that Carter was called in and that he entered into negotiations with the employers on the one hand at one occasion, and then with—and attempted to force a contract on the local union? A. Would it make any difference to me?

Q. In your judgment. A. Well, I am unable to answer that question. There would be more to it than just that. I would have to have all the facts, and then I don't know what I would do. Naturally, if I saw that there was anything wrong and knew it for sure, then that would make—that would affect it. I base all my decisions on what I think is right in fact, not imagination.

Q. These are things which were alleged in the complaint, were they not? A. There were some of them, but I repeat again, Mr. Freedman, that that was the duty of the other side to present.

Q. Well, you mean it was up to him to disprove it? A. Well, it was up to Mr. Underwood to disprove it?

[2400] Q. Yes, to disprove the charges? A. Well, I think that after the evidence had been presented against him, that he was there to defend himself, wasn't he? Wouldn't that be the—as I see it. He was there to defend

himself, and he should have brought out anything that he had, and not close the case and say "I am satisfied," unless he was satisfied.

Q. He asked for the privilege of a lawyer, didn't he? A. Yes, he wanted Mr. Freedman there, as I recollect.

Q. And he was denied that privilege? A. He was stated the constitution provided that only members of the organization can do it. That is all I know. This constitution is written by all the members.

Q. If you wanted to know all of the facts and you wanted your judgment to be fair, why didn't you ask these questions when you found that no one else asked them? A. Well, I have no way of telling why I didn't now. I was satisfied that Mr. Underwood was there to defend himself. It wasn't my job to defend him there. I was there to hear the evidence and then pass judgment the best way I knew how based on facts. Now, I certainly think that Mr. Underwood was qualified to defend himself.

Q. Do you have any recollection of any of the other things that were mentioned in this complaint? [2401] A. No, not now. Not offhand, no.

Q. Are you able to state whether any other members of the Board asked any questions regarding these allegation of the complaint? A. To my best recollection, I don't think any did—anybody asked any questions on the Board. They might have, but I can't answer the question definite. I know I didn't.

Q. How long did the hearing last, altogether? A. Well, I don't know. I should say two hours, probably. I don't know exctly. Time passed awfully fast.

Q. How long did Mr. Maloney speak, if you remember? A. Well, I don't know—I don't think he was on the stand over ten minutes, at the most. I can't state exactly the time that he was on.

Q. If I told you that Mr. Maloney himself said about three minutes, would you say that was wrong? A. No, I wouldn't contradict that at all, because it was a very short

session. I wouldn't argue against that at all, if it was only three minutes.

Q. And how long was Mr. Thomas—was he on the stand? A. Oh, yes.

Q. Was he sworn? A. He was testifying. He was asked some questions, I think he was there somewhat longer than Mr. Maloney. Now, [2402] I can't give you the exact time, but I think he testified somewhat longer than Mr. Maloney did.

Q. Did anybody else testify against Mr. Underwood? A. Well, I think Carter did. Didn't he? Carter? Carter was there, but towards the last, I have a faint recollection that he made some statements.

Q. What did he testify to? A. Well, in connection with the case, but I don't exactly know what he said. I think somebody else should have to testify to that—have more recollection. I can't.

Q. You don't remember at all what Carter said? A. No, not anything that would be of definite value to this case.

Q. When Carter was testifying, you had the complaint before you, did you not? A. Oh, yes, we had it—

Q. Did Carter testify—

A. The charges had been read, and Maloney and Mr. Thomas—Mr. Maloney and Mr. Thomas had testified, and if I recollect correctly, Carter was last. I think he was the very last witness. I can't tell you exactly.

Q. Carter was mentioned in the complaint, too, was he not? A. You mean he was included in the complaint by Mr. Underwood, is that it?

[2403] Q. That's right. A. I guess probably if you look at the record you will find out. I think he was. I am not sure. He must have been. Yes, I think so.

Q. Didn't you consider it important to ask him any questions about the truth of the allegations of the complaint? A. I will try to make my position clear. I would like to answer your questions, but I will have to repeat

the same thing again. I sat there as one member of the Board. I listened to everything that was said, and I weighed over the evidence. And the last testimony was Mr. Underwood himself. He is asked a question, "Are you satisfied?"

He said, "Yes." He said, "I have this document here and you have all read it. That is my defense."

And he talked, I would say ten or fifteen minutes he stood up. Now, time passes, sometimes very deceiving. And then he was asked, the last thing that I remember was, "Will you say you had a fair trial?"

And Mr. Underwood said, "Yes," and he won't deny it. Whether he believed or not, that is up to him, but he said yes. And what would I start then to ask the questions? It was over. I am telling you just the fact.

Q. Don't you feel you had the right to ask questions? A. I think I have a right to ask questions any place I go.

[2404] Q. Why didn't you at that point? A. Well, because I felt it was a one-sided affair.

Q. In what respect? A. What could I gain by asking the questions when the defendant himself has pleaded guilty, and says that is what he did? What do you want me to do?

Q. That he signed the complaint. A. Well, it is like signing a note.

Q. That is what he admitted. That is the only thing he admitted, isn't that right, that he signed the complaint? A. I don't know. He said, "This is my statement." I don't know if he wrote it. I think he said, I think probably the attorney wrote it. Probably you wrote you. I don't know about that, but—

Q. But the point is— A. But I have a faint recollection that there might be words he made—attorney's words. But there wasn't anything I could do as a Vice-President but do what I do. When the defendant himself says "I am satisfied I have had a fair trial," and that he spoke out very loud and every man in the hall could hear,

and he was extended time—any more time—I don't know what else I could do.

[2405] Q. In other words, when he admitted he signed the complaint, so far as you were concerned, that was the end of it? A. Well, I don't think that is a fair question. I don't know how to answer that question. I have tried to explain to you my position. I can't change my position as I see it.

Q. Was it or was it not true you were only interested in determining whether or not he signed that complaint? A. No. I was very much interested in this case, for your information. I had known Mr. Underwood a long time as a friend. And I say that without fear of any contradiction. And here he deliberately admits and says, "I have had a fair trial." What else could I do? I couldn't do nothing else but what I did. As I am now speaking as one member, and I wasn't interested in anybody else. I was just interested in my own vote.

Q. Now, you convicted upon the basis that he signed the complaint. A. You say—I don't know—I was going to say Your Honor. I was going to say how can I explain this any better than I have done? I have done the best I can to give you my honest statements here. I don't know if I should sit here all night and say it over again or not. I will have to do it if you say so.

[2406] Q. I think you ought to start sooner or later in giving direct answers to the questions. A. Well, I think I have done that as direct as it is humanly possible for me to do.

Q. Did you convict him because he admitted he signed the complaint? A. I don't think that that has any bearing in this case. I convicted him on everything that was brought up. What else could I do, when he admitted he done it?

Q. When he admitted he did what? A. He done what he was charged with. In accusing the President by doing something that he should do.

Q. You mean in that complaint—

MR. FREEDMAN: Than on page 198, sir.

By MR. FREEDMAN:

Q. That was your answer. Were you finished? A. No, I wasn't altogether finished. I had answered it previously. You asked—may I get back a little bit? Was I asked a question why I convicted Mr. Underwood? Is that the question?

Q. The last question—you can go back to that in a moment, but the last question was whether or not by saying that he [2407] admitted to what he was charged with you are talking about the allegations contained in the complaint, is that right? A. I am talking about the case that Mr. Underwood filed against the General President when he accused him of everything under the sun.

Q. That's right. That is the complaint. A. The complaint.

Q. And the fact that he signed that complaint is the basis on which you rendered a conviction? A. The fact that he not only signed it, but wrote it, and also that he—

Q. Endorsed it, is that what you mean? A. And also that he had failed to comply with the constitution. He hadn't exhausted his remedies in this book, which he is part of. And he jumped over that and he went to the court. And he admits that that was the fact. That is what he admitted. And he didn't deny it. He said, "I had a fair trial. I am satisfied." What do you want me to answer now, Mr. Freedman?

Q. I didn't tell you I wanted you to annswer anything. All I am trying to get from you is some honest testimony here. A. I am trying to answer the questions. I will answer anything you ask me, if I know how to answer—if I know it.

Q. So that when you say he admitted it, you mean that he [2408] admitted to all of the things which were alleged in the complaint; by signing it he admitted to all of the things, is that what you mean? A. What I mean, so I get this clear. I mean that when Mr. Underwood said to the presiding officer—that happened to be Delaney—that

he was satisfied, that he had a fair trial; I say then that he had completed his testimony, and I had to then decide on the evidence as being presented. I had no choice. That is what I mean.

Q. I don't understand what you mean when you say you had no choice. You had no choice then to do what? A. My duty there was to weigh the evidence and render a verdict accordingly. I was only responsible for myself, nobody else.

Q. I am trying to find out the basis on which you reached that conclusion of yours.

MR. FREEDMAN: Near the top of page 201:

By MR. FREEDMAN:

Q. So that I understand correctly, Mr. Swanson, you felt that you had no alternative than to find him guilty, because, one, he had signed the complaint, including all of these things you talked about; and, secondly, he had not exhausted [2409] his remedies within the Union, is that correct?

MR. WOLFE: No, that is not what he said.

THE WITNESS: That is not what I said. That is the farthest thing from what I said.

By MR. FREEDMAN:

Q. What in addition to that impelled you to find against him?

THE COURT: All right. Down at the bottom.

By MR. FREEDMAN:

Q. If that is not correct, I would like you to tell me in what respect it is not correct?

THE COURT: The answer is at the bottom of the page.

THE WITNESS: I want to know the question. Then I want to refer back to another question. The same question again. I will give the same answer every time you ask, as long as I sit here, whether you

go to court or any other place, I will tell you the truth.

MR. FREEDMAN: Then the question was repeated. [2410] at page 203:

"Q. So that I understand correctly, Mr. Swanson, you felt that you had no alternative than to find him guilty because, one, he had signed the complaint including all of these things you talked about; and, secondly, he had not exhausted his remedies within the Union, is that correct?"

THE WITNESS: That has been answered a dozen times before.

By MR. FREEDMAN:

Q. You said it was not correct before. A. Whatever the answer was before is still my answer.

Q. You said your answer to that— A. Well, then, if I have answered it—

MR. FREEDMAN: His answer to that question was that it is not correct. Am I correct in that, Mr. Reporter?

(The answer of the witness was repeated by the reporter as follows:

"A. That is not what I said. That is the farthest thing from what I said.")

By MR. FREEDMAN:

Q. Now, in what respect is that statement not correct? A. If you go back a few questions before, my complete answer—

[2411] Q. Well, I am asking you now. A. How do you want me to answer to satisfy you? I am not going to do it.

Q. You don't have to satisfy me. I just want the truth here. A. I have answered as I know it.

Q. You said that that statement I made before was not correct.

THE COURT: Then there is a colloquy.

MR. FREEDMAN: Now at the bottom of page 205, sir?

THE COURT: Yes.

(The question was repeated by the reporter as follows:

"Q. So that I understand correctly, Mr. Swanson, you felt that you had no alternative than to find him guilty because, one, he had signed the complaint including all of these things you talked about; and, secondly, he had not exhausted his remedies within the Union, is that correct?")

THE WITNESS: I never made that statement. I never said I had no alternative. I had alternatives, because [2412] I was guided by the evidence there, entirely, and I had a conscience that guided me to do it, see.

By MR. FREEDMAN:

Q. Did you find him guilty on the basis of those two factors that I outlined there? A. Maybe it would be better if I answered the question once more so you would be satisfied. If I understand the question right, I am asked why I found Mr. Underwood guilty.

Q. That is not the question. A. Oh, well, then, I am mistaken.

MR. FREEDMAN: Will you please read the question back again.

THE WITNESS: Well, then I don't know.

By MR. FREEDMAN:

Q. You listen to this question, Mr. Swanson. A. I withdraw my—

Q. You listen to this question. A. Excuse me.

(The question was repeated by the reporter as follows:

"Q. So that I understand correctly, Mr. Swanson, you felt that you had no alternative than to find him

guilty because, one, he had signed the complaint including all of these things you talked [2413] about; and, secondly, he had not exhausted his remedies within the Union, is that correct?")

MR. FREEDMAN: Then his answer was repeated by the reporter:

("A. That is not what I said. That is the farthest thing from what I said.")

MR. FREEDMAN: Now, "The Witness:"

THE WITNESS: Do you want another answer? I will again try to answer.

MR. FREEDMAN: Then I asked the reporter to repeat my last question.

(The question was repeated by the reporter as follows:

"Q. What in addition to that impelled you to find against him?")

THE WITNESS: In order to answer that question I would like to give you the whole story of the case, as I see it on this question.

[2414] By MR. FREEDMAN:

Q. Don't make the same speech you made before, now, Mr. Swanson. Just answer the question. A. I am going to answer it my own way, whether you like it or not, because I am telling the truth. Now, here it is. I have been asked why I found Mr. Underwood guilty. Here is the reason for it.

First, Mr. Underwood had filed charges against the General President, accused him of a lot of wrongful doing. The matter was published in the newspapers.

Mr. Underwood, I believe, withdrew it without—with prejudism. The case come up. Mr. Thomas testified. Mr. Maloney testified. First, the charges were read.

Finally, Mr. Underwood testified. And Mr. Under-

wood in defending himself did not deny that he had accused the President of these things. He did not deny that he had jumped over the constitution and gone to court. And he stated that he had had a fair trial, and that was it. He was satisfied he had had a fair trial.

That is why I found him guilty.

* * * * * * *

[2417] Q. Now, when did you reach your conclusion, Mr. Swanson? A. After all the evidence were in.

Q. Immediately afterward? A. Sir?

Q. When after the evidence was in? A. I understand the trial when I voted? Is that it?

Q. Yes. A. Well, after all the evidence were in I had—my conclusion was reached.

Q. The same day? A. After—that is—you are talking about my mind. No, we had an Executive Board meeting one or two meetings afterwards, when we took the vote where we decided, but you asked me when I made up my mind. Am I supposed to understand it in that way?

Q. That's right. [2418] A. I made up my mind when Mr. Underwood said he was satisfied he had had a fair trial, and I had heard the evidence.

Q. Now, thereafter did you discuss it with any of the other members of the Executive Board or anybody else? A. Well, I might have done that. I presume we might have done that. I wouldn't say that I didn't. Naturally, you talked about the case and so forth, if that is what you mean.

Q. Don't you recall having talked about it to any of the other members of the Board? A. Sir? All of the other members, the same as I was. They had no alternate. There was only one decision they could make. There was no choice.

Q. Didn't you meet in executive session to discuss it? A. Well, yes.

Q. When was that? A. We had, I think two executive sessions afterward.

Q. I see. When did you hold those two sessions? A. I think it was the nineteenth—dates are hard for me to

remember. I think it was the nineteenth. I would refer you to the records, if you please, because I think it was the nineteenth. One or two days afterwards.

Q. That was the first meeting you had? A. Sir?

[2419] Q. After the hearing. The nineteenth? A. No, the seventeenth was the hearing, and then I think there were several cases came up there, and then the Board went into executive session, and then when it took this case up and voted on it and decided—

Q. Was it unanimous? A. Sir?

Q. Was the decision unanimous? A. Oh, yes, yes.

Q. Was there any discussion on it? A. Oh, well, there might have been some discussion, but there isn't any question about the decision in the Board. I never heard anybody discuss—

Q. Well, they discussed it first, didn't they? A. Discussed it— . . .

Q. They discussed the case first before they voted, didn't they? A. Oh, yes, they might have discussed it, but everybody was at the trial, they heard everything that was going on. They all had pretty well made up their mind, I think.

Q. Who was at the Executive session? A. Let's see. The whole Board was there. I don't think the President was in it. He never took a vote on it. He [2420] never voted on it. I know that—whether he was in there or not, I am not sure. I wouldn't say that, but he didn't vote. The President never votes.

Q. How long did it take from the time you convened until the time you found him guilty? A. Well, that case—there were other matters came up while we were in executive session. I don't recall. I suppose—I don't think that case required very long, because a case that has been heard like that, and everybody satisfied that they had heard all sides, it doesn't take long for them to vote on it.

Q. How long did it take them to consider and decide it? A. Well, I can't tell exactly. I don't think it take over half an hour, that case, to decide it.

Q. What did they talk about in that half hour? A. Well, they talked about the case, I guess, and discussed matters like that. The problems that are involved, and so forth.

Q. What kind of problems? A. There are a lot of problems when you find anybody guilty of anything.

Q. Were you talking about whether you should find him guilty or what the punishment should be? A. Sir?

[2421] Q. During that half hour were you talking about whether or not to find him guilty, or what the punishment should be? A. Oh, yes, that was the question before this committee and at the Board that time.

Q. How long did it take you to consider whether he was guilty? A. I just told you, around probably, it was ten or fifteen minutes, up to half an hour. That is about all. That is as far as I can remember. I don't keep track of the time.

Q. When did you discuss the penalty, then? A. That was discussed there.

Q. At the same time? A. Yes, sure.

Q. During the same ten minutes? A. I didn't say ten minutes.

Q. To a half hour. A. Maybe a half hour. I really don't know exactly. It might have been two hours, for all I know. Time passes so fast when you sit in a Board like that.

Q. How many other matters did you have before the Board at that time? A. Well, I don't know. I think I will refer you to the records. They will tell you.

[2422] Q. Don't you remember? A. No, I don't remember all those matters. I will refer you to—

Q. Did you sit in the morning or afternoon? A. I am not sure. No, I can't tell you. I haven't consulted the record on this at all. I don't remember whether it was—if it was New York, I have an idea it was in the forenoon.

Q. Did anybody express an opinion that Mr. Under-

wood might not be guilty? A. No, nobody questioned that in there.

[2423] Q. Who sat in at the occasion of the executive sessions? Who sat in? A. Who sat in?

Q. Who all sat in, yes. A. The Executive Board, when they go into executive session, it is only the Vice-Presidents, as I know. That is the executive session. I don't recall of anybody else being in there.

Q. You say you considered other matters at the same time. A. Well, there might have been other matters pertaining to the—that come up previously. We hear a case one day and we discuss it in Executive Board sometimes.

Q. The General President sits in on those things, doesn't he? A. It isn't necessary. He can refer it to anybody. The President can assign anybody. That happens—

Q. Was he or wasn't he there? [2424] A. I don't know for sure. He might have been in there, but I am not sure. I know that he didn't take part, or he didn't vote, or he didn't say anything in the Executive Board meeting. I know that. If he was in there, I can't tell you. Somebody else can that was there, they probably have a better recollection. He sat in on the trial, but,—part of the time, but whether he was in the executive session, I am not quite positive now.

Q. Was there any dissenting view by anyone, either as to the conviction or as to the penalty? A. Not that I can recollect, no. Not that I remember, no.

Q. Wasn't the statement made that Underwood has got to be taught a lesson? A. Not in there.

Q. Where was it made? A. Well, I don't know whether it was made or not.

Q. Did you ever hear it at all? A. It was never made—I never heard it made. I know I didn't make it.

Q. Who presented the opinion and the findings against Underwood? A. I don't know who did it. I didn't.

Q. Well, you approved them, didn't you? A. Certainly.

[2425] Q. When did you approve them? A. Huh?

Q. When did you approve them? A. Approve—wait a minute. What are you referring to? The findings?

Q. The findings. A. The findings of the—

Q. And the opinion. A. Of the decision of the Executive Board?

Q. That's right. A. In regards to Mr. Underwood's case?

Q. That's right. A. Well, I presume the Secretary kept record of it, and we have a Secretary there, Mr. Gramling. I suppose he wrote the decision, after it had been made. I know I didn't.

Q. Do you know that Mr. Gramling did it? A. Well, I think the Secretary's duties is to write the minutes of the meeting, of the decisions. I think his name is on it there.

Q. Well, now, are you saying that the findings— A. Huh?

Q. Are you saying that the findings and the opinion were presented in the form of a motion? [2426] A. I think there was a motion to—you may call it motion—there was a vote taken as to whether he was guilty or not guilty. That did not require a motion. And then the penalty afterwards discussed.

Q. Did you discuss the findings? A. Sir?

Q. Did you discuss the findings? A. The penalties?

Q. The findings of the Board. Don't you know what the findings are? A. After we had taken the vote, there wasn't any more to discuss on that. That was final. The Board had voted on it. Then it was up to the Secretary to record it. If I understand your question right.

Q. Then you didn't vote on specific findings, did you?

A. That is too deep for me. Findings. The finding—the Board had set in session and heard the case. They laid the matter over for an executive session. And in the executive session the case comes up again and they discuss it and they take a vote, and the vote was unanimous for guilt. The Secretary's duty is to record that finding, and.

then the question came up as to the penalty. That could be in the form of a motion.

Q. Was there any opinion rendered by the Board? [2427] A. Well, I don't understand—yes, there was an opinion that they found him guilty. Is that the opinion that you want? I am lost now. Maybe. Sure, there was an opinion. The Board found him guilty. That was an opinion. The Secretary so recorded it.

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[2447] HARRY R. HALLORAN, having been duly sworn, was examined and testified as follows:

By MR. FREEDMAN:

Q. Mr. Halloran, you were the chief negotiator for the three Contractors Associations in connection with their negotiations with the International Union of Operating Engineers in the Philadelphia area during the period 1951 and 1952? A. Yes, I was chairman of the Joint Committee of the three Associations.

* * * * * * * *

[2448] A. Yes, I was chairman of the Joint Committee of the three Associations.

Q. How long had you been chairman? A. Since '48.

Q. I see. And are you still chairman of it? A. Yes.

* * * * * * * *

Q. Now, you had another meeting, Mr. Halloran, did you not, of the Contractors? I think you said you had another one after April of 1952. Can you place that with respect to date? A. I would be pretty sure we had a general meeting in July.

Q. Was that at Beck's? A. At Beck's, yes.

[2449] Q. What happened at that meeting? A. At that meeting it was—the status was discussed; the fact that a good many jobs were—that had been able to operate for a while had ground or was grinding to a close. The fact that we were seeking the intervention of the International; the fact that we had had a meeting with the Building Trades Council, and considerable discussion on the

demands that had been made by the Engineers. And I think at that time we had a meeting with the State Mediator.

* * * * * * * *

Q. Now, what did you report to them about seeking the intervention of the International? Were you chairman of the meeting? A. Yes.

Q. Go ahead. A. I reported to them—now, I am not sure whether the meeting was held before or after I had had any meeting with [2450] the representative of the International, but—so I am not sure of whether I reported that I was going to have it or expected to have it or that it had been.

Q. Will you give us your best recollection, please, Mr. Halloran. A. I would have to try to place the dates or—

MR. McHUGH: Do you mind if I refresh the witness by showing him a list of expenditures for meetings?

MR. FREEDMAN: May I see it first, please? Thank you. Is that a copy?

MR. McHUGH: Yes.

MR. FREEDMAN: All right. Do you want to mark that for identification?

THE WITNESS: I haven't looked at this yet.

MR. FREEDMAN: Sure. I am going to mark it. You can look at it.

THE WITNESS: All right.

MR. FREEDMAN: Please don't confer.

(A paper headed "Year 1952" presented by the witness bearing dates running from 4-3-52 to 3-31-53 was marked Plaintiffs' Exhibit P-2000 for identification.)

By MR. FREEDMAN:

Q. All right. Now, Mr. Halloran, you have in your hand a copy of a document which has been marked for

identification [2451] as P-2000. Does that help you refresh your recollection? A. Well, on the one meeting, the one in early July, it still leaves me with the same question, because this check—one is dated 7-9, and it is in connection with a meeting at Beck's. Now, I can't be sure whether that was the date of the meeting. I don't know whether the secretary paid for it today, or a week after the meeting, or whether he paid the night of the meeting. And the—one of the meetings with the International was held at about the same time, so I can't be sure whether this may have been a day or two before or after.

MR. FREEDMAN: Mr. McHugh has just given me a telegram which may help you refresh your recollection. Will you mark that.

(A telegram dated July 7, 1952, 8:48 p.m., addressed to Manus McHugh, Esq., from H. A. Windisch, the Contractors Association of Philadelphia, was marked Plaintiffs' Exhibit P-2001 for identification.)

THE WITNESS: Yes.

By MR. FREEDMAN:

Q. You have examined that exhibit now? A. Yes.

Q. Does that refresh your recollection? A. Yes.

[2452] Q. Now, can you answer the question? Do you recall the question? A. Yes. Whether or not—what the discussion was at this meeting which I had said was in late June or July, and it turns out the meeting was on July 9.

Q. Yes. A. Yes. I described the meeting which I had attended in Chicago with the International President.

Q. And what did you report to the meeting at the time so far as Mr. Maloney was concerned? A. I reported that I had described the situation to him and that he had promised to look into the—investigate the matter.

Q. And as a result of your conversations with Mr. Maloney, did you tell them that—did you recommend that the Contractors should hold out in their position? A. Yes.

Q. And oppose the demands of the local? A. Well, I am not—I am going to break that question into a couple of questions there, as I think there are two parts. I recommended at that time that we continue to oppose the demands of the local; told them that we had finally after long effort been able to get our story across to the International, but that we hadn't received the visit [2453] of the International representative that Mr. Maloney was going to consider.

Q. But did you say to the group that you would recommend on the basis of your discussion with Mr. Maloney, that you would recommend to the group that you continue to hold out? A. I recommended that we continue to hold out. I reported that we had got the story across to the International President, and that as a result of that we expected that the International would send a representative in to investigate and try to bring an end to the strike.

Q. Did you know the representative that was sent in? A. I think that at the time we were out there Mr. Maloney said he would—if he did send somebody in, he would ask Mr. Carter to go in.

Q. Did you know Mr. Carter? A. Yes.

Q. How long had you known him? A. I think I had met him twice.

Q. Just twice before that time? A. Yes.

Q. Had you known of him prior to that time? A. Yes, I had known of him.

Q. Had you done business with him? [2454] A. I hadn't done—

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THE WITNESS: I had, as I said, met Mr. Carter twice, once before the—not too long before this, and another time a year or more in advance of that.

By MR. FREEDMAN:

Q. And what was the nature of your business with Mr. Carter? A. The first occasion a year or more before,

it was that I was just introduced to him as being a contractor that had a job in New Jersey.

Q. Had you done any work in New Jersey prior to that time? A. You mean prior to that time a year in advance of this?

Q. Yes. A. Yes.

Q. And did you— A. But I hadn't met Mr. Carter before that.

Q. I see. Well, with whom did you transact your business in connection with the New Jersey work? A. Well, the various agents would visit the jobs. [2455] Usually I didn't have any direct connection myself. The various agents would visit the jobs and talk to the job superintendents.

Q. I see. Now, you knew what the Jersey Union Contract provided for, didn't you, at that time? A. Yes, we had worked in New Jersey.

Q. And you had to work under it? A. Yes.

Q. The rates there were substantially higher than what they were on this side, were they not?

* * * * * * * * *

A. For most classifications.

Q. Is that correct? A. Yes.

Q. Now, when did you first do business in New Jersey, do you recall? A. Well, I had a job in New Jersey in either 1943 or 1944.

Q. And whom did you have to confer with or do any business with at that time in connection with your work? A. Well, at that time I think that the—one time I [2456] happened to be on the job when an agent named Forsythe called on the job.

Q. Was Fay in charge of the New Jersey Local at that time?

* * * * * * * * *

A. Yes.

Q. Had you ever met Fay?

* * * * * * * * *

A. No.

Q. Never talked to him? A. No.

Q. Never in your life? A. No.

Q. Did you know about him at that time? A. I knew that he was the head of the New Jersey Local, and that he was—I had heard that he was an International—an officer of the International.

Q. Was Carter at that time one of Fay's assistants? [2457] A. When I was—you mean in this—at the time of this first job of mine in 1943 or 1944?

Q. That's right. A. Well, I didn't meet Carter in that connection, and I am not sure what his position was at that time. That is, now we are talking about Carter, senior?

Q. That is correct. A. Yes.

Q. Now, all during the time you did any work in New Jersey, did Fay's name ever come up?

* * * * * * * *

A. I remember—yes, remember hearing Fay's name.

Q. In what connection? A. Well, I remember one time we had a job we had in—this job in Linden, New Jersey, in say 1943 or 1944. Fay come out and visited the job and talked to the superintendent, but I didn't happen to be there that day.

Q. I see. No, I was asking you whether in connection with your conversations or your business, whether Fay's name came up. A. Well, then, that was reported to me by my own super- [2458] intendent.

Q. Is that the only time? A. No. I say that without remembering any specific details, I would have to admit that Fay's name came up.

Q. I see. Now, what about Carter? Did you subsequently learn at any time what Carter's position was with respect to the local? That is, whether he was Fay's first assistant or second assistant, or what he might have been?

* * * * * * *

A. Well, at the time I met Carter, I believe he was the head of the local. I think that was after Shinn had died.

Q. I see. And what year was that, do you remember? A. I think that was 1950.

Q. That was after Fay had gone to jail? A. Yes.

Q. And Carter then was in charge of the local? A. Yes.

Q. Now, when you met Carter then, was it in connection with work that was being done in New Jersey? A. Yes.

[2459] Q. Did you ever talk to him about any work —at least prior to this job, prior to the strike, or prior to the matters which are involved in this case—did you ever talk to him about any work which was located outside of New Jersey? A. No.

Q. Was Carter ever represented to you as an officer of the International?

* * * * * * * *

A. Yes.

Q. Or as an agent of the International?

* * * * * * * *

A. I had heard that.

Q. You had. From whom? A. That seemed to be general knowledge. I am not sure whether I was talking to any of the delegates that I had met over in New Jersey, or whether I heard that from the other contractors who worked in New Jersey. It was—it [2460] seemed to me to be common knowledge that he was an officer of the International.

Q. And what did you understand him to be in the International?

* * * * * * * *

A. I understood he was a vice-president, but I am not sure of that.

Q. I see. And in your dealings with him, did you assume that he was a representative of the International?

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A. Well, when I talk about my dealing, my original meeting with him was merely for the purpose of introducing me as a contractor who had a good-sized business in New Jersey

Q. I see. I think you said you met him twice before these matters arose, is that correct? A. Yes.

Q. When was the other occasion? A. Well, the second time was shortly before this, or [2461] was during the strike of 1952, when some of our Philadelphia contractors who also were—did a lot of work in New Jersey made an appointment for me to see Mr. Carter.

Q. When was that? A. That was late June of 1952.

Q. 1952. And did you see him? A. Yes.

Q. Where? A. At his office in Newark.

Q. In Newark? A. Yes.

Q. I think you said late June. Did you go to see him alone? A. No.

Q. Who was with you? A. We had our—some; if not all of our Joint Committee.

Q. How many were there? A. I think there were four. I would be pretty sure Buckley was there. Lauter. And I am not sure whether Glasgow or not was there.

Q. I see. And who was there for the Union besides Carter, if anybody? A. I am not sure whether young Carter was there or whether Weber was there or Duffy was there.

[2462] Q. But did he have somebody else with him? A. Yes.

Q. You said before that some of your New Jersey contractors set the meeting up. Do you recall who they were? A. Well, I know that both Canuso and Union Paving were members of our Association who did a good bit of work over in New Jersey, and it was one of those two that set the meeting up.

Q. I see. Well, now, what happened at that meeting with Mr. Carter? A. We described the situation that—this strike over here, and told him that the year before we had tried to get the International to intervene, but that they apparently were relying on McDonald for — we thought were phony reports to the International.

Q. Anything else? A. No. We went into considerable discussion along those lines, describing the situation.

Q. McDonald was the International Vice-President in charge of this area? A. Yes.

Q. Now, what did Carter say when you told him all of these things? A. He asked a lot of questions and listened, and he— [2463] I am not sure whether he said it, but I got the impression that he was going to report it to Maloney.

Q. What did he say to you? I mean to your group. How he felt about it. A. I don't think he gave an expression of opinion about how he felt about it. I think that he was—asked us for information, and we gave it to him, and we had sought the meeting, and we went into it in detail. I think the meeting lasted over an hour.

Q. And can't you relate anything more than what you mentioned about what might have been said in that meeting by him than what you have already said? A. I don't think that he expressed any opinion at the meeting; that when we related the circumstances, I think he asked a lot of questions, but I don't think he expressed any opinion. I came away with the impression he was going to report it. Now, whether he said it or whether I got the impression, I can't be sure.

Q. Was this before your meeting with Mr. Maloney? A. Yes.

Q. How long before? A. I guess two to three weeks.

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[2464] Q. Now, after that Chicago meeting, did you ever see or talk to Mr. Maloney? A. Yes, I saw him and talked to him in Atlantic City.

Q. When was that? A. That was in late July or early August of 1952.

Q. And where did you see him? A. In the lobby of the hotel where they were having the convention — the A. F. of L. was having the convention in Atlantic City.

Q. How did you know where he was staying? A. Because I was trying to do everything I could to find out when he was going to give a decision on the case. And I

went down to—well, I went down—I had a residence at the seashore, and I went down there—but I would go down to the lobby of the hotel, and I called him and I couldn't catch him on the phone; finally caught him in the lobby of the hotel.

Q. Did you talk to him there? A. Yes.

Q. What did you talk to him about? A. Talked to him about when he was going to do something about this strike, thought we had presented enough information so that he could see that it was—the strike was unfair and should be called off.

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[2623] ROY J. UNDERWOOD, recalled.

DIRECT EXAMINATION

By MR. FREEDMAN:

Q. Mr. Underwood, I show you these exhibits marked P-171-1 to P-171-24 and ask you whether you can identify those, please. A. Yes, sir.

Q. Can you tell us what they are, please? A. These are telegrams that came to me in the office of the union, from members of the union who had received them from certain employers.

[2624] Q. Are the addresses on those telegrams members of your union? A. Yes, they are.

Q. Were the senders of the telegrams contractors? A. Yes, sir.

Q. Can you identify the contractors, that is, by association, whether they were independents or whether they belonged to the associations? A. They were all members of the contractor associations, one of the three associations.

Q. The three Philadelphia associations that we have referred to here? A. Yes, sir.

Q. Will you read the first one?

The first one isn't dated, if the Court please, but throughout the remainder it appears that they were sent out on May 4, 1951.

Will you read the first one, please.

* * * * * * * * *

[2625] A. The first one is from Buckley & Company, Inc., and is addressed to John Fagnani, 5113 Thompson Street, Philadelphia.

"By orders of Building Trades Council to Locals 542A, 542B, 542C ordering union to restore men to work Monday morning, May 6, your job is available to you."

Signed Buckley & Company, Inc.

Q. And the remaining telegrams, are they of the same tenor, Mr. Underwood? Have you examined them? A. Yes, sir. They cover the same subject.

Q. Did you take any action pursuant to those telegrams or pursuant to the action of the Building Trades Council, Mr. Underwood? A. No specific action, no, sir.

(Telegram from Roy J. Underwood to the Building and Construction Trades Council, dated May 7, 1951, [2626] was marked Exhibit P-172 for identification.)

MR. FREEDMAN: P-172 is a copy of a telegram from Roy J. Underwood to the Building and Construction Trades Council dated May 7, 1951.

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-172 and ask you to identify that, please. A. This was a telegram sent to the Building Trades Council by the local union, announcing their withdrawal from the council.

Q. Announcing the local union's withdrawal from the council? A. Yes, at the time when the Building Trades Council issued a statement to the effect that we had engaged in an illegal strike.

Q. Will you read the telegram, please.

* * * * * * * * *

A. It is addressed to the Building and Construction Trades Council of Philadelphia and vicinity, 715 North Broad Street, Philadelphia, Pennsylvania.

"Notwithstanding the propriety of the [2627] requests of organized labor, you have, over a number of years, so consistently opposed organized labor and so consistently supported employers that we feel required to sever our connections with your council so long as you retain your present officers. With regard to the dispute of the International Union of Operating Engineers, Local 542, 542A, 542B with the various associations of contractors representing employers, we feel that ethically we cannot engage with you, and the contractors who obviously aligned with you, in a trial of the issues in the local press in an attempt to publicly improperly influence the disposition of a matter which is pending before our local court."

Signed Roy J. Underwood, President and Business Manager.

(Telegram from Arthur D. Hill for William E. Maloney to Roy J. Underwood, dated May 7, 1951, was marked Exhibit P-173 for identification.)

MR. FREEDMAN: P-173 is a telegram from Arthur D. Hill, for William E. Maloney, to Roy J. Underwood, dated May 7, 1951.

Q. Mr. Underwood, I show you P-173 and I ask you to identify that, sir. [2628] A. Yes, this is a telegram from Arthur D. Hill, for William E. Maloney, to Roy J. Underwood, and was sent by Mr. Hill following my advice to him of the action taken by the Building Trades Council.

Q. Will you read that telegram, please.

A. "Am informed Philadelphia Building Trades Council has ordered you to return your men to work on jobs where you have no contract. Section 20 of the constitution and bylaws to govern local councils of the Building and Construction Trades Department provides that the Executive Board shall consist of one delegate from each affiliated trade and the President and Secretary who shall officiate as such and shall be entitled to vote but no vote in case of a tie when the

President shall cast the deciding vote. Local 542 I.U.O.E. has no member on the Executive Council in Philadelphia in spite of continuous protests of Local 542. The action of the council therefore has no effect since the council has not complied with the law governing it."

[2629] Signed Arthur D. Hill for William E. Maloney.

(Telegram from Roy J. Underwood dated May 8, 1951, to the Members of the Executive Board of the Local Union, was marked Exhibit P-174A for identification.)

(List of names attached to Exhibit P-174A was marked Exhibit P-174B for identification.)

MR. FREEDMAN: P-174A is a copy of a telegram from Roy J. Underwood dated May 8, 1951. P-174B is a list of names attached, to whom the telegram was to be sent.

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-174A and B and I ask you to identify that, sir. A. This is a telegram or a copy of a telegram sent to the members of the executive board of the local union requesting their approval of withdrawal or severing of our connections with the Building Trades Council. It is dated May 8, 1951.

Q. Will you read it, please. A. It reads as follows:

"Following receipt of telegram from general office, severed connection of Local 542 with Building Trades Council stop Irresponsible conduct of local [2629a] officers left no other course stop Request you as member of executive board wire or write our office approving this action."

Signed Roy J. Underwood.

[2630] MR. FREEDMAN: Mark this with the next number, A, B, and C, again, and so on.

(A series of letters and telegrams was marked Exhibit P-175-A through P-175-M for identification.)

By MR. FREEDMAN:

Q. P-175-A to M are a series of acknowledgments dated May 8, 1951, in response to the telegram just read.

Mr. Underwood, I show you Exhibits P-175-A to M and I ask you to identify them and just read the first one, please.

A. These are replies to the telegram of May 8th, requesting approval by the Executive Board members of withdrawals from the Building Trades Council. They are from members of the Executive Board of the local union.

The first one is addressed to the International Union of Operating Engineers, Local Union 542, Philadelphia, attention: Mr. Roy J. Underwood, Business Manager. It is from Homer G. Dawson:

"Dear Mr. Underwood:

"As a member of the Executive Board of Local Union No. 542 I concur in your action severing connections with the Philadelphia Building Trades Council.

"It is difficult to imagine why an organiza-
[2631] tion supposedly representing labor, can so consistently work in the employers' interest.

"Very truly yours,

"(Signed), Homer G. Dawson."

That is dated May 8, 1951.

Q. Mr. Underwood, did you receive any votes of the members of the Executive Board disapproving any action taken by the Building Trades Council? A. No, sir, I did not.

Q. Did they all approve? A. Yes, sir.

MR. FREEDMAN: Will you mark this?

(Telegram dated December 15, 1950, from Arthur D. Hill for William E. Maloney to Roy J. Underwood, was marked Exhibit P-176 for identification.)

By MR. FREEDMAN:

Q. P-176 is a copy of a telegram from Arthur D. Hill for William E. Maloney to Roy J. Underwood, dated December 15, 1950.

Mr. Underwood, I show you P-176 and I ask you to identify that, please. A. This is a telegram dated December 15, 1950, addressed to Roy J. Underwood, 121 North Broad Street, Philadelphia 7, Pennsylvania, and it is from Arthur D. Hill for William E. [2632] Maloney, a copy to O. William Blaier. It reads as follows:

> "If picket of Building Trades Council is again placed on Easton, Pennsylvania, Bridge job you are hereby directed to disregard the picket and keep engineers working in the absence of specific orders to contrary from the General Office."

Q. Signed by whom? A. Signed by Arthur D. Hill for William E. Maloney.

MR. FREEDMAN: Will you mark this telegram, please?

(Telegram dated May 7, 1951, from the McCormick Construction Company to Roy J. Underwood was marked Exhibit P-177 for identification.)

By MR. FREEDMAN:

Q. P-177 is a telegram from the McCormick Construction Company to Roy J. Underwood, dated May 7, 1951. Mr. Underwood, I show you P-177 and ask you to identify that, please. A. This is a telegram dated May 7, 1951, to Roy Underwood, International Union of Operating Engineers, 121 North Broad Street, Philadelphia, and it is from the McCormick Construction Company.

Shall I read it?

Q. Yes, please. [2633] A. It reads as follows:

> "We are now paying the New Jersey scale of wages to engineers, $3.50 per hour, double time for all overtime.
>
> "(Signed) McCormick Construction Company."

Q. Was that in your area, within the jurisdiction of Local 542, Mr. Underwood? A. Yes, sir.

* * * * * * * * *

[2635] Q. Exhibit P-178 is a two-page document, a copy, with the notation at the top, "Last Union proposal

submitted to Maloney & Halloran in Chicago on last day of discussions, July 30th."

Mr. Underwood, I show you P-178 and I ask you to identify that, sir. A. This is a copy of the proposal submitted to Mr. Maloney and Mr. Halloran on July 30th in Chicago during our discussions at that time—it was in 1952—and set forth the suggested basis for the settlement of the strike then in progress.

Q. This was submitted by you? A. Yes, sir.

Q. Is that your last proposal? In Chicago, I meant. A. Yes. This was the last one in Chicago.

* * * * * * * * *

[2748] MR. FREEDMAN: I have asked Mr. Wolfe during the recess to produce certain copies of the minutes which I don't have with me. The first is the minutes of the regular meeting of March 4, 1947, and while you are at it, the regular meeting for December 2, 1947.

MR. WOLFE: I will produce them as you call for them, and at your request I am producing, from the original minute book, three sheets of paper, which appear to be the original minutes of the meeting of March 4, 1947, of the membership of Local 542.

[2749] As these are the original minutes, I assume, Your Honor, Mr. Freedman will have them photostated and substitute photostatic copies for the original.

MR. FREEDMAN: I will be glad to do that. As a matter of fact, I don't see any purpose in offering the whole thing. I just had in mind taking out of it one section that I am looking for now.

At the top of Page 3 of that set of minutes, that is, of the minutes of the regular quarterly meeting held in March 4, 1947, I quote the following:

"Brother McDonald read a communication sent to him by General President Maloney appointing Brother McDonald to take over the full Supervision of Local

Unions 542, 542A, 542B and 542C of the International Union of Operating Engineers for the best interests of the membership."

And then on the same page there appears the following:

"Brother McDonald read a letter appointing Jasper H. White Assistant Supervisor of Local Unions 542, 542A, 542B and 542C of the International Union of Operating Engineers. He further stated that he, Brother McDonald, would employ the best attorneys in the City of Philadelphia to protect the membership [2750] of the Local Union."

MR. WOLFE: Is that all you want?

MR. FREEDMAN: That is all I want.

MR. WOLFE: I will be glad to stipulate with Mr. Freedman, if Your Honor please, that those excerpts which he has read from the minutes of the meeting of March 4, 1947, are contained in the minutes, subject, of course, to our objection as to relevancy and materiality, and so forth.

THE COURT: Very well.

MR. FREEDMAN: I will do the same thing with 12-2-47.

(Minutes handed to Mr. Freedman.)

MR. FREEDMAN: Then again at the top of Page 3 of the minutes of the regular meeting of the International Union of Operating Engineers, Locals 542, 542A, B, and C, held on Tuesday Evening, December 2, 1947, there appears the following:

"Brother McDonald further remarked on the Court Case pertaining to Local Autonomy or International Supervision for Local Union 542 of the International Union of Operating Engineers, stating that a Master will be appointed to hold an [2751] election."

From the same page, and I quote again:

"International Supervisor John McDonald stated that he had received credential from General President

Maloney of the International Union of Operating Engineers authorizing him to appoint Brother John Carter Assistant International Supervisor of the affairs of Local Union 542 of the International Union of Operating Engineers."

* * * * * * * * *

[2755] MR. FREEDMAN: I offer in evidence, from the minutes of the regular meeting of the Executive Board of the International Union of Operating Engineers, Local 542, 542-A, 542-B, and C, held December 5, 1949, the following:

"Motion was made by Bro. C. S. Denoncour, seconded by Bro. Columbo Acchione, that the next election of officers be for a four year term. Motion carried unanimously."

I offer from the minutes of the regular meeting of the International Union of Operating Engineers, Local 542, held on December 6, 1949, the following:

"The minutes of the Regular Meeting of the Executive Board held on December 5, 1949, were read. Motion by Brother G. Gilroy, seconded by Brother Hugh Weston, that these minutes be accepted."

* * * * * * * * *

[2756] MR. FREEDMAN: The last one is April 4, 1950. I offer, from the minutes of the regular membership meeting of the International Union of Operating Engineers, Local 542, held on April 4, 1950, the following statement on page 5, of the minutes:

"Questions and remarks by Brother C. Miniscalco were answered by President Underwood and also by International Vice President McDonald, explaining that the local is governed by the International Constitution, which provides for a one to four-year term of office."

* * * * * * * * *

[2758] Q. Mr. Underwood, did you compile a statistic in connection with the collection of assessments arising out of [2759] the strike which commenced in May

of 1952? A. Yes, sir, covering the period after supervision was imposed.

Q. From what did you compile your figures? A. From the records produced by the International Union.

Q. Are you able to state what sum was paid into the Local treasury in connection with that assessment? A. From the records I examined, the ones produced, it amounted to $72,000.

* * * * * * * *

[2806] Q. Mr. Underwood, that meeting of the Executive Board—I think it was on July 25, 1952, when the Board considered the revisions of the demands prior to your going to Chicago— [2807] was that the date? A. July 25th, I believe, yes, sir.

Q. As outlined in those minutes. Now, at that meeting, when the revision was considered, did the Board give you instructions to impart a specific program to Mr. Maloney, or did they give you any discretion? A. No. The Board acted at my suggestion, actually, that they suggest something that would show that we would retreat from our position if it became necessary to convince Mr. Maloney in Chicago that that was necessary, and certainly they permitted me to use my own discretion in accordance with whatever developed out there, whatever circumstances developed out there, whatever circumstances developed.

Q. Now, Mr. Underwood, did you prepare a computation of the receipts into the defense fund from the strike assessment? A. Yes, sir, I did.

Q. Would you state what the sources were from which you obtained those figures? Do you have them with you? A. Yes, I have. The sources from August 21, 1952, to December 31, 1952, inclusive, were the daily disbursement reports produced by the International Union. For the year 1953, that is, from January 1, 1953, to December 31, 1953, the receipts of defense assessments were shown in the [2808] financial statement distributed by the International Union among the local membership, and the receipts in the defense fund or for the defense assessment for the

year 1954 were also shown in a financial statement distributed by the International Union to the membership. The daily disbursement reports from August 21, 1952, to December 31, 1952, show receipts of about $44,400.

Q. Do you have the exact figures? A. Yes, I do have.

Q. Are they on this sheet? A. Yes, they are.

[2809] Q. Now will you consult your memorandum, Mr. Underwood, and give us the exact figures. A. The daily disbursement reports from August 21, 1952, to December 31, 1952, inclusive, show receipts of $44,407 from defense assessments.

The financial statement distributed by the International Union for the year 1953 shows defense assessment receipts of $29,120.

The financial statement distributed by the International Union for 1954, covering 1954, shows defense assessment receipts of $1,330.

The financial statement from the International Union for the year 1955 shows receipts, defense assessment receipts, of $270, making an over-all total of $75,127 for that period covered.

Q. Mr. Underwood, who is O. B. Soucie? A. O. B. Soucie was an International trustee of the International Union of Operating Engineers up until the time he was imprisoned.

Q. What is an International trustee? What are his responsibilities? A. Well, the trustee is one of three who are charged with the responsibility of looking over and assuming responsibility for the property and assets of the International [2810] Union.

Q. Who was Orville Rhodes? A. Orville Rhodes as a business agent in the union of which O. B. Soucie was the business manager.

Q. Who was Henry Highfill? A. He was also a business agent in the same union.

Q. Who was William DeKoning, Sr.? A. William DeKoning, Sr., was the business manager of Local 138 in Long Island up until the time he was sent to prison.

Q. Who was Carl "Dutch" Bianchi? A. He was the business manager of, I believe, Local 513 in St. Louis, Missouri, up until the time he was sent to prison.

Q. Who was Guy Harmon? A. He was the business manager of a local union in Peoria, Illinois, up until the time he went to prison.

MR. FREEDMAN: If the Court please, I ask Your Honor to take judicial notice of the following records in the following courts:

In the case of United States vs. O. B. Soucie, Eastern District of Illinois, Criminal No. 18,184, on March 28, 1955, pleaded guilty to Count I, labor racketeering. Sentenced by Judge Caspar Platt to five years' imprisonment [2811] and $10,000 fine.

United States vs. Orville Rhodes, Eastern District of Illinois (Danville), Criminal Action No. 18,184—

THE COURT: That is the same action as the previous one.

MR. FREEDMAN: Exactly, sir. This conforms with the statement that I previously gave to Your Honor.

On 1-28-55 pleaded guilty to Count I. Imposition of sentence suspended, placed on probation for five years, fined $3,000.

United States vs. Henry Highfill, Eastern District Illinois, Criminal Action No. 18,184. On 1-28-55 pleaded guilty to Count I. Imposition of sentence suspended, placed on probation for five years, fined $3,000.

People of the State of New York vs. William DeKoning, Sr., et al., on indictment No. 13,037, dated November 5, 1953, alleging 3 counts of conspiracy, 85 counts of extortion and five counts of coercion entered in the County Court of Nassau County, New York, on April 1, 1954. William DeKoning, Sr. pleaded guilty to extortion under the second count, which plea was taken in satisfaction of the indictment by the

Hon. Cyril J. Brown, judge of the County Court of Nassau County, New York, who on April 9, 1954, sentenced DeKoning to a minimum of one year and a [2812] maximum of 18 months, to be served in the New York State Prison at Sing Sing, New York.

United States vs. Carl "Dutch" Bianchi, L. A. Thompson and William Poster, September Term, 1954, No. 27588, criminal court. Name of Judge: Ruby M. Hulen. Tried in Court No. 2 of the Eastern Division of the Eastern District of Missouri. Found guilty on two counts. First count unlawfully obstructing and delaying commerce and second count was the furtherance of conspiracy to exort and obtain money. Found guilty on both counts. First count sentence—10 years —Second count—suspended, put on probation for five years. During period of probation prohibited from holding office in any labor union with or without compensation.

By MR. FREEDMAN:

Q. At this point, Mr. Underwood, can you identify L. A. Thompson and William Poster? A. The names are familiar, but I can't identify them at this moment.

MR. FREEDMAN: The next is United States vs. Guy Harmon. Trial by jury and found guilty in the United States District Court for Southern District of Illinois (South Division) on January 11, 1955, Criminal Action 5306. Found guilty on two counts of interfering [2813] with Interstate Commerce by labor racketeering, 28 U. S. C. Section 1954. Sentenced by Judge Briggle to $10,000 fine.

* * * * * * * * *

[2820] Q. Now, I just want to make fully sure that I quoted you in substance. It seems to me that yesterday you read that at one meeting you explained to the members the power of a union, a local union, that had full automony within the scope of the International, as a member of the International. Did I quote you correctly that you at some

meeting explained the rights of the local union within the International at or during this time? A. Truthfully, sir, I don't recall that being in the minutes.

[2821] Q. Then I will have to find it, because I had a very distinct impression that you did say that and you read it out of one of the minutes yesterday, and I consider that important enough to stop right now and find it.

At one meeting you explained to the membership the rights and duties and obligations and the powers of the local union, an autonomous local union, within the scope of the International, and it came at a time that Carter was in the picture. Do you remember that? A. I recall stating to the membership or to the Board that the local union had a right—

Q. Don't tell me what you stated. I just want the fact that you did explain something. A. Not as fully, I think, sir, as you indicated. I think we were talking about rights to strike.

Q. I don't want to hear anything about it yet, Mr. Underwood. A. Very well.

Q. I just want to keep within the terms of the minutes. I don't want to put any undue burden on you, but within the limits of the minutes I do want something.

THE COURT: Will you gentlemen see if you can find it.

MR. FREEDMAN: My copies are in evidence, [2821a] sir. That is why I don't have anything in front of me. I would be glad to look for it if I may have the originals.

THE COURT: They are all right there. Hand them to him, Mr. Schuman.

(Exhibits handed to Mr. Freedman.)

[2822] MR. O'BRIEN: Perhaps, sir, if you will refer to page 2705, I notice something there in connection with the Plaintiff's Exhibit 189, which I think might be the subject you are looking for.

THE COURT: All right.

MR. O'BRIEN: If you do not mind—

THE COURT: No. That is not the one I had in mind. It is the meeting of the Executive Committee, and not the Negotiating Committee, or a membership meeting, either one. That has nothing to do with the Negotiating Committee, that I am looking for.

By THE COURT:

Q. At page 2736. Let us go back a little bit. You were discussing the meeting of Halloran and Carter, "Suggestions by Carter."

Now, this is the minutes in handwriting of Lavery, Exhibits P-192 and 192-A. And it had to do with a report by President R. J. U.

I am going right through now, starting at page 2735. Those are the minutes of the meeting that I gave you the date of. Did I give it? I do not think I did. I just gave the number.

Executive Board meeting, August 4, 1952. I am starting at page 2735, at the top of the page. I [2823] want this so that you will get the continuity of it:

"Report by President R. J. U. Meeting with General President—Local 150 office. General President impression Carter was to be observer only. Carter came to Chicago, also Jack Carter. Said Halloran agreed to Welfare Fund, etc., etc. Carter talked to Halloran from Chicago. Talked to Halloran at Philadelphia Airport. He arrived Tuesday.

"Suggestions by Carter. Halloran insists on meeting R. J. U. in hotel room. General President said much pressure by Howard McGrath, Governor Fine, Maurice Tobin. Thursday General President said to settle Welfare first.

"Halloran objected to Independent agreement. Like to have 49 contract. Objects to M. M. Clause." master mechanics. "No oilers truck cranes. Tide Water Clause. Compressors. R. J. U. pointed out prevailing

rates for area. Explained safety program, etc., etc. R. J. U. arrived in Philadelphia 1:30 P.M.

"Called by General President 2:30 P.M. Call from Halloran Friday—Meeting 3:30 P.M. He insists on arbitration. —R. J. U. says 'No.'

"Call today from President Maloney, saying [2824] we would arbitrate."

R. J. U. says "No." After R. J. U., it is just plain "No," and nothing else.

"Could not see how it could be done. Explained strategy, etc., etc.

"General President very anxious for settlement. Underwood explains how pressure is being applied. — Going to be up to Executive Board and Members. Points how harmful it all can be, etc., etc.

"Explains how this contract must prevail, etc., etc. R. J. U. asks for General President telegram.

"General President tells Underwood to recommend we accept their terms.

"Motion by R. Walsh & McCormick.

"Explanation by R. J. U. about keeping everything belonging to us, within our jurisdiction—Pumps. Mixers, Etc. Etc."

Then you left something out:

"R. J. U. explains importance of our position, explains rights of Local Union."

Q. Now, I want you to explain to me the rights of the Local Union that you referred to yesterday [2825] and that was referred to in that minute of that meeting. You tell me what you said are the rights of the Local Union.

A. Well, as nearly as I can recall, sir—

Q. I am not asking you— A. I don't recall specifically.

Q. I do not ask you to recall word by word. I just want the substance of what you said. A. I believe I said that the General President is delegated broad powers by the Consttution of the International Union. At the same time,

an autonomous local union is guaranteed certain rights under the Constitution, and that in my opinion, the General President could not exercise his powers in disregard of the rights guaranteed autonomous local unions in such a manner as to nullify or destroy those rights. I undoubtedly said that the local union had a right to strike; it had a right to negotiate its own contracts without interference from outside sources.

Q. And that is an absolute right? Is that what you told them? And is that what you thought? Let us take it first: Did you tell them that was an absolute right? A. I probably never used that term, sir. But in my [2826] opinion, I felt it was.

Q. All right. Now let us get what your thinking was. Did you consider that it was an absolute right? A. Yes. I believe it is an absolute right guaranteed to local unions, sir.

Q. And if on an over-all picture the General President disagreed with you, you feel you have the right to ignore his directions and continue on your own course and disregard a mandate from your International President under your own Constitution? A. When that mand: e, sir, or that order, was to the effect of destroying or null. ying the rights guaranteed to the local union under the Constitution, I felt that I had a duty and an obligation to follow the directive of the Executive Board of the local union and take such measures as they recommended to protect the local union's rights under the Constitution.

THE COURT: Read my question back.

(Question read.)

By THE COURT:

Q. You can answer that yes or no. And I want a yes or no answer. A. Yes, sir.

Q. All right, sir. [2827] A. I would like to add an explanation, sir.

Q. You may make any explanation you want. I never cut a person off. A. Yes, sir.

Q. You made an explanation that if you considered it destroyed rights, that you had the right to ignore the order and proceed in your own fashion. That is in substance what you told me, is it not? A. I am sorry, sir. I certainly didn't intend it that way. I certainly mean that the Executive Board of the union and the membership agree—

Q. Well, you were the President. You were the Business Manager. A. Yes, sir.

Q. And there is no use in trying to fool around, Mr. Underwood. You exerted tremendous influence on that Executive Board. Now, you say that you took the mandate of the Executive Board, and another feeling might be created, that the Executive Board pretty well followed you. Now, there are two possibilities. So that is still up in the air and has not been determined. I assure you, it has not been determined, but nevertheless, there is that approach to it.

[2828] Now, did you consider that either the Executive Board or you as President and Business Manager recommending to the Executive Board, had a right to overrule the judgment of a national President who was looking at it from an over-all national basis, public-relation-wise and otherwise, and on the basis of that, he might make a determination that might be the wrong determination; it might have been based on wrong information given to him, but if made by him in good faith, you think you had the right to ignore it and refuse to follow his mandate if he told you to take certain actions as a constituent member of the International organization? A. Yes, sir. I believe they had a right to do so, in the absence, sir, of any information concerning his motives, which we did not have.

Q. Then you considered—I am trying to be logical—you would consider that you would have the right to demand Maloney's motives and his purposes and reasons for putting out an order and he would have to explain them to you before you would be bound by any order of his? A. Not any order, sir, but—

Q. The order that is in contest in this case? A. Yes,

sir. When I say, the order that he issues takes away the rights guaranteed to the local union, under the [2829] Constitution, I think that he is dutybound to explain to the membership fully why he is requesting or ordering them to do something not in accordance with their rights under the Constitution.

Q. We are talking about rights. With every right there is a correlative duty and obligation. You understand that. A. Yes, sir.

Q. All right, Now, what is your obligation with respect to the International? That is the point I am trying to develop. And we do not seem to be getting very well along.

You are a member of an International body. A. Yes, sir.

Q. You have a Constitution that embraces not only the national operation but the local operation; is that right? A. Yes, sir.

Q. All right. Now, what do you know about the over-all picture in the United States outside of Philadelphia? A. Well, I know very little personal knowledge, if any, sir.

Q. All right. What do you know about the over-all labor situation of the International Operating Engineers, politically-wise in Washington, and throughout the several states of the United States? [2830] A. Only what you would read in the newspapers, I suppose. You get no reports from the International concerning those things.

Q. No. I rather assume you would not. A. No, sir.

Q. But don't those factors enter into good labor relations throughout the United States, and good public relations for labor? Labor needs, as much as business, good public relations. You understand that? A. Yes, sir. I certainly do.

Q. —because I have the feeling that if the public does not support labor, we are all in a bad way. A. Yes, sir.

Q. Well, now, is that not the job of the national President, to know these things? A. I believe it is the job, yes sir, of the national President to know these things, but,

sir, I believe that the national President also has an obligation to a local union to fully explain these things to a local union if that is the motivation behind acts which take away the rights of the local union. I do not think a local union should be penalized for complying with the Constitution. And that is what the local union was doing, sir.

[2831] Q. Was it or was it not? Isn't that the point of this suit? Maybe you were and maybe you were not. Maybe you were defying the Constitution. That is what the International says.

Isn't that the point of this case? A. I believe they have taken that position, yes, sir. We were legally advised that we had a right to protect the rights of the union in the manner we did, sir.

Q. All right. That is all I have to ask you now, Mr. Underwood.

* * * * * * * *

[2894] DEFENDANTS' EVIDENCE

NORMAN BLUMBERG, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. O'BRIEN:

Q. Mr. Blumberg, where do you live [2895] A. 7812 Washington Lane.

* * * * * * * *

Q. What is your present occupation, Mr. Blumberg? A. My present occupation is the business manager of the Central Labor Union.

Q. And in connection with that position do you have any duties with the Building Trades Council? A. Presently I am a liaison officer of the Building Trades Council.

* * * * * * * *

Q. Would you explain, Mr. Blumberg, just what the Building Trades Council is. What is its make-up? A. The Building Trades Council is a council consisting of all of the affiliates affiliated with the 19 international organiza-

tions of the Building and Construction Trades Department.

[2896] Q. And what is the Building and Construction Trades Department? A. The Building and Construction Trades Department is the department of the construction industry under jurisdiction of the American Federation of Labor, composing all of the international unions in the building trades industry.

Q. Now, could you describe those craft unions that are in the Building Trades Council. A. The crafts that are affiliated in the Building Trades Council?

Q. Yes, sir. A. They are comprised of all of the trades enumerating from A to Z, which starts off with the Asbestos Workers, and it comprises, without my enumerating all of them, all of the construction trades that would make up the construction industry.

Q. What is the internal make-up of the Building Trades Council? First of all, is there a constitution? A. There is a constitution.

Q. Did you bring a copy of the constitution with you? A. Yes, I did.

Q. May I have it, please. A. Yes (handing).

MR. O'BRIEN: Would you mark that, please.

[2897] (Constitution of the Building Trades Council was marked Exhibit D-37 for identification.)

By MR. O'BRIEN:

Q. I show you Defendants' Exhibit 37, Mr. Blumberg, and ask you if you will identify it. A. Identify this as the constitution of the Local Building Trades Council?

Q. If that is what it is. A. That's what it is.

By THE COURT:

Q. Of Philadelphia? A. Of Philadelphia.

By MR. O'BRIEN:

Q. What is the obligation of craft unions each to each other who belong to the Building and Construction Trades Council? A. The obligation of the various trades affiliated with the council is to cooperate and support one another

insofar as agreements, securing better working conditions, wages, etc.

Q. Now, does the Building Trades Council enter into contracts with contractors? A. Yes.

Q. And what contractors does it enter into contracts with? [2898] A. The Building Trades Council enters into a master agreement with the general contractors, better known as the Associated General Contractors, under a master agreement.

* * * * * * * *

[2923] By MR. O'BRIEN:

Q. Now, what were some of the jobs that were tied up as a result of this strike by Local Union 542? A. I think I have a memorandum here. If you don't mind, if you want them enumerated, I have them here.

Q. I would like to have them any way you can do it, Mr. Blumberg.

MR. FREEDMAN: I want to examine any memorandum the witness wants to look at before he looks at it, sir.

THE COURT: After you get your papers in shape, Mr. Blumberg, will you let Mr. Freedman look at them?

THE WITNESS: Yes.

THE COURT: The ones you are talking about there. Let Mr. Freedman look at them before you testify [2924] from them, Mr. Blumberg.

MR. FREEDMAN: Thank you.

May I ask a question or two about this memorandum before he begins to testify from it?

THE COURT: All right.

By MR. FREEDMAN:

Q. Who made this memorandum, Mr. Blumberg? A. This memorandum?

Q. Yes. A. I had dictated that to the Secretary as a memorandum. That's all, but I will—go ahead.

Q. What are your initials? A. Norman Blumberg.

Q. Take a look at the initials that show who dictated this and tell us who it says. A. This one here was written by—

Q. What are the initials? A. JLL.

Q. Who is JLL? A. He is the Assistant Business Manager.

Q. What is his name? A. Loughlin, James L. Loughlin.

Q. Do your initials appear on that memorandum? A. No, they do not on this here.

[2925] Q. Is there any date on that, a heading or title for this memorandum? A. No, this is only a memorandum, that's all. There is no date on there.

Q. Did he dictate that memorandum? A. Perhaps this here one he might have dictated.

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CROSS-EXAMINATION

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[2932] By MR. FREEDMAN:

Q. Mr. Blumberg, I understood you to say before that Local 542 had requested permission to withdraw. Was that [2933] your testimony? That is in May of 1951. A. That was done by wire. I think the copy of the wire is in there.

Q. I think perhaps you didn't understand my question. I said I understood you to say before that Local 542 had asked permission to withdraw. Was that your testimony?

THE COURT: He testified that on 5-29-51 he wrote a letter as shown in Defendants' Exhibit 43. That was the extent of his testimony.

By MR. FREEDMAN:

Q. In which you stated you said something about complying with the request to withdraw; is that right? A. If my memory serves me right, yes.

Q. Was that in response to a telegram that you had gotten from Local 542? A. Yes.

Telegram dated May 7, 1951, addressed to the Building and Construction Trades Council, was marked Exhibit P-196 for identification.)

Q. I show you this telegram that I just took from your files, and I ask you whether that is the telegram you received. A. That's right.

Q. Now, will you read it, please. [2934] A. "Philadelphia, Pennsylvania, Building and Construction Trades Council, Philadelphia and Vicinity, 715 North Broad Street, Philadelphia.

"Notwithstanding the propriety of the request of organized labor, you have" —

Q. To whom is that addressed, please? A. I just read that. To the Building and Construction Trades Council.

Q. And did you read the date also? A. The date, pardon me, May 7, 1951.

Q. Now, will you proceed, please.

MR. O'BRIEN: If Your Honor please, I believe this telegram is already in evidence as an exhibit.

THE COURT: It is.

MR. FREEDMAN: This came from his own file, and I am going to ask him some questions about it after he reads it.

MR. O'BRIEN: Well, read it to yourself, then, Mr. Blumberg.

MR. FREEDMAN: If the Court please, I object to Mr. O'Brien interfering with my cross-examination.

THE COURT: I have heard it before. I will hear it again.

Do you remember we were talking about self-serving [2935] declarations?

MR. O'BRIEN: Yes, sir.

THE COURT: All right, I will hear some more of them.

MR. FREEDMAN: Well, this is not a self-serving declaration under these circumstances, sir.

MR. O'BRIEN: I think it is a classic example of one, sir.

MR. FREEDMAN: I will let the record speak for itself.

THE WITNESS: Am I to read it?

MR. O'BRIEN: Yes, you are, Mr. Blumberg, out loud.

THE WITNESS: "Notwithstanding the propriety of the requests of organized labor, you have, over a number of years, so consistently opposed organized labor and so consistently supported employers that we feel required to sever our connections with your council so long as you retain your present officers, with regard to the dispute of the International Union of Operating Engineers, Local 542, 542A, and 542B, with the various associations of contractors representing employers. We feel that ethically we [2936] cannot engage you and the contractors who are obviously aligned with you in a trial of the issues in the local press in an attempt to publicly improperly influence the disposition of a matter which is pending before our local court."

Signed R. J. Underwood, President and Business Manager.

By MR. FREEDMAN:

Q. So that Mr. Underwood, or, rather, Local 542, didn't ask for permission, they voluntarily severed their connection; isn't that correct? A. I am only reading what's here. I am not assuming anything.

Q. Well, I am asking you to base your answer on that telegram. You said that you based the letter that you read before on that telegram, did you not? A. That was the council's action to accept the resignation. You are asking me as an individual. I did report as such.

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[2938] By MR. FREEDMAN:

Q. Mr. Blumberg, don't you recall that when the strike first broke in May of 1951, you sent a telegram to Local 542—when I say you I mean the council sent a telegram to Local 542—stating that the strike was illegal or improper? [2939] A. I would have to check the records. I don't have them here.

Q. You have no recollection of that? A. 1951 to 1957 is six years. I don't remember everything in six years.

MR. FREEDMAN: I would like the witness to check his records, sir, when he goes back and produce the telegram or a copy of the telegram which he sent to Local 542 concerning the strike.

By MR. FREEDMAN:

Q. Let me refresh your recollection. Maybe we can do it that way. You would know what action the council would take, wouldn't you? A. Yes.

Q. As secretary. Do you recall that the council sent a telegram to Local 542 stating that the strike was illegal and that the men should go back to work? A. You are asking me of that specific telegram. I still have to check the records to ascertain.

Q. Whether it was a telegram or whether it was something else, do you recall that you sent such a communication to Local 542? A. I would still have to check the records. It is too far back for me to remember.

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[2940] Did you order the men to return to work in connection with that work stoppage in May of 1951? When I say you I mean the Building Trades Council. A. Well, that is the normal procedure of the council in ordering anyone—

Q. You ordered them to return to work? A. I said that was the normal procedure of the council in ordering anyone to return if they are in violation of the constitution.

[2941] Q. And did you do it in this case? A. I am assuming that we had.

Q. And you did that without any hearing, without communicating with the engineers? A. That would be the normal procedure in notifying, but I would still have to check the records.

Q. Did you in this case communicate with the employers and tell them that you were ordering the men back to work? A. I would have to check the records to check that.

Q. Let me show you P-171-1 to 24. Will you examine those, please. First of all, do you know what they are? A. These wires I haven't sent out. These wires were sent out by the contractors.

[2942] Q. Yes, do you know what these wires are? Do you know what they refer to? A. Well, I am assuming that they are telling the people that the Building Trades has ordered the engineers to comply with the laws of returning the men to work. That is in accordance with the constitution that I just read.

Q. So that you got in touch with the employers even before you got in touch with the engineers?

MR. O'BRIEN: He didn't say that, if Your Honor please.

A. No.

THE COURT: Go ahead, Mr. Freedman. There is no objection on the record.

MR. O'BRIEN: That is objected to.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Did you get in touch with these employers and tell them that you had ordered the men back to work? A. The Council in taking its action, and the union was notified.

Q. When was the union notified? A. The union was notified after the Executive Board, having had the matter in their hands with full power to proceed, notified the engineers.

[2943] Q. What was the date of that? Was it in May? A. No. I don't have my memorandum here on it.

Q. You say you were subpoenaed. You say you were subpoenaed to come here? A. Yes.

Q. Do you have that subpoena with you? A. Is that the one you are referring to (indicating)?

Q. Yes.

This subpoena reads that you are to bring with you all of the records of the Philadelphia Building and Construction Trades Council, Philadelphia and vicinity, relative to its dealings with Local 542, International Union of Operating Engineers, in the years 1951 and 1952; is that correct? A. That is correct.

Q. Did you bring all of those papers with you? A. For those two years, 1951 and 1952.

Q. Well, what about these telegrams that you say might be back in the office? A. I didn't say telegrams might be back in the office.

Q. Are you denying that you sent the telegram— A. No, I am not denying it.

Q. Well, if it was there, would it be among your papers here? [2944] A. That is what I was just looking at, but I don't see the wire. This is the memorandum I have here.

Q. This memorandum that you have showed me, does it have a date? A. Not on here, this memorandum don't have a date.

MR. FREEDMAN: Would you mark this as the next plaintiffs' exhibit number, please?

(Document on the stationery of Building and Construction Trades Council, headed "Wire sent Mr. Underwood and Mr. Maloney, copy to Mr. Gray," was marked for identification as Exhibit P-197.)

By MR. FREEDMAN:

Q. P-197 is a paper—

MR. O'BRIEN: Could I see it, please?

MR. FREEDMAN: Surely.

By MR. FREEDMAN:

Q. P-197 is a piece of stationery of the Building and Construction Trades Council and at the head is the statement, "Wire sent to Mr. Underwood and Mr. Maloney, copy to Mr. Gray." It is undated.

Now, Mr. Blumberg, I ask you to examine that document and tell us when that was sent out. A. This could have all happened in the week of May 1, in that week.

[2945] Q. May 1, what year? A. 1951.

Q. I want to be very fair with you, Mr. Blumberg.

I want you to read that again and tell me whether or not that wasn't sent or doesn't refer to August of 1952. A. Now, wait a minute. That's right, that would be.

Q. This refers to August, 1952, does it not? A. This would be in 1952.

Q. Just leave this out. Let me have this.

So that this paper which has been marked P-197 has no connection whatsoever with the incident in May of 1951, has it?

Are you listening to me, Mr. Blumberg? Please— A. I am looking at it.

Q. You were looking at the papers. A. Correct, but I want to be definite, because there is no date on there, and I want to be correct, too, and I want to be honest about everything, but I can't remember everything, just coming up here, and things happening in 1951 and 1952.

Q. Just be responsive to the questions and give us your best recollection. That is all we can ask you. We can't [2946] expect any more than that.

THE COURT: Will the reporter read back the last question?

(Question read as follows:

"Q. So that this paper which has been marked P-197 has no connection whatsoever with the incident in May of 1951, has it?

Are you listening to me, Mr. Blumberg?")

A. My recollection is that would be in 1952.

By MR. FREEDMAN:

Q. In August of 1952; is that right? A. I think that would come in that area.

Q. Yes, as a matter of fact you have "copy to Mr. Gray" and you never took it up with Mr. Gray prior to August of 1952, did you? A. When the department had been informed repeatedly of what was going on in Philadelphia with the unauthorized strikes.

Q. Did you take it up personally with Mr. Gray, as you did in this memorandum I have just referred to that was marked P-197? A. I am pretty certain that we had.

Q. Where is the memorandum of it? A. I said I am pretty near certain that we had taken it up [2947] personally with him.

Q. Wouldn't you make a memorandum of it? A. Not necessarily.

Q. So that I get it straight, this memorandum that you have referred to, P-197, does not refer to May, 1951; is that correct? A. When you say refer to—this is the climax of all of the actions.

Q. I am asking you whether this is a telegram—this is a telegram, a copy of a telegram; is that right? A. Yes, and it also says to Underwood, so you would have the original, wouldn't you?

Q. Will you listen to my question, please? This telegram was sent in August of 1952, was it not? A. According to that.

Q. Well, is there any doubt in your mind? A. I said the week of August—whatever the dates were in there.

Q. But—are you finished? A. Yes, I am finished.

Q. But it certainly wasn't May of 1951, was it? A. I don't believe so.

Q. Now, where is the document regarding May of 1951?

MR. O'BRIEN: Objected to. That is the type [2948] of question, sir, that assumes there is such a document.

THE COURT: Read back the previous two questions and the answers to me.

(Last four questions and last three answers read aloud.)

THE COURT: I will sustain the objection.

By MR. FREEDMAN:

Q. Mr. Blumberg, these telegrams that I have shown you marked P-171-1 to 24, I assume those were taken in response or pursuant to some action of the Building Trades Council; is that correct? A. I assume so.

Q. Well, where is the authority for those telegrams? A. You keep repeating telegrams, and all of those actions was taken in the Building Trades meeting, at the minutes of which you looked over.

Q. I haven't looked over them yet, Mr. Blumberg. A. The minutes—all of the action is by minutes of the Council.

Q. My question to you is do you question that these are telegrams? A. I didn't send them, so I couldn't tell you.

Q. Do you understand the question? These are telegrams, are they not? [2949] A. I assume they are.

Q. My question is where is the authority pursuant to which these telegrams were sent? A. You would have to ask those who sent them. I don't know.

Q. That is just what I am asking you.

MR. O'BRIEN: That is objected to.

A. I didn't send them, so I couldn't answer.

MR. O'BRIEN: There is an objection to that question, if Your Honor please, because it assumes that there was some authority emanating from Mr. Blumberg for the contractors to send these telegrams. There is no such evidence in the record.

I also object to Mr. Freedman badgering the witness.

THE COURT: What is the last question.

(Question read as follows:

"Q. My question is where is the authority pursuant to which these telegrams were sent?")

THE COURT: I will sustain the objection to the question.

By MR. FREEDMAN:

Q. Mr. Blumberg, do you deny that there was any authority for those telegrams? [2950] A. I couldn't answer that question.

Q. Did you examine your files to determine whether there were any minutes or memoranda or copies of telegrams pursuant to which these telegrams that have been marked P-171-1 to 24 were sent? A. Everything pertaining to the case is contained in these minutes which I have been subpoenaed to bring, and you will find all the answers in there.

Q. Will you examine your minutes and then show me where in your minutes there is any authority for those telegrams?

MR. O'BRIEN: That is objected to. There is no basis—

MR. FREEDMAN: I am asking—

MR. O'BRIEN: There is no basis for that question. It is so objectionable that I won't—

THE COURT: There are a lot of coincidental assumptions involved within the framework of that question, Mr. Freedman.

MR. O'BRIEN: And wishful thinking.

THE COURT: Well, I will sustain the objection to the question as phrased.

By MR. FREEDMAN:

Q. Mr. Blumberg, you have stated that there are minutes that you have brought with you—strike that and let me [2951] put it this way.

You say you have brought with you all of the documents covering the years 1951 and 1952 dealing with the activities of Local 542; is that right? A. That is right.

Q. Will you examine the documents you have brought with you to determine whether or not there is any authority in those minutes or in any document that you have which could support these telegrams sent by the contractors marked Exhibits P-171-1 to 24?

MR. O'BRIEN: That is objected to.

THE COURT: Sustained.

I will ask the question for you, Mr. Freedman.

By THE COURT:

Q. What action, if any, did the Building Trades Council take on or about the first week of May, 1951, with respect to Local 542 of the operating engineers?

It is as simple as that, Mr. Freedman. A. Your Honor—

Q. That is the question for you. A. All right.

Your Honor, I have the minutes here, and under date of May 4—

Q. All right. Pass them over to me and let me look at [2952] them, please. A. This is a memorandum which is contained in these minutes, and "C" indicates Council, and the E. B. indicates Executive Board.

THE COURT: This memorandum reads as follows:

"Record of Minutes of Executive Board and Council in 1951.

"May 4 (Council) Question of work stoppage of May 1, 1951, involved considerable number of trades. Council not consulted before stoppage.

"May 8 (Executive Board) After Engineers notified to attend meeting Underwood wires Council May 8, 1951 of his withdrawal from Council. Board recommends charges be brought.

"May 11 (Council) Council approves action of Board.

"May 11 (Executive Board) Board finds in accordance with Article 8. 'There seems to be foundation for the charge.'

"May 18 (Council) Trial held. Found guilty and Local notified to put Underwood and other officers on trial at Local level.

"May 25 (Council) Secretary Blumberg reports advising local of action of Council. Matter referred [2953] to E. B. for study and resolution to be referred to Building Trades Department. Council accepts resignation of Engineers, International notified."

It seems to me that is your answer.

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[2955]: Q. Between those two dates there was no action or no meeting of the Council or Executive Board regarding this strike? A. No, the next meeting of the Council after May 4 would be May 11.

Q. I see. Now were there any other conversations carried on other than by the Council or the Executive Board? A. No.

Q. Then can you state where the contractors could have gotten the information that they received to send these telegrams out on May 4 and 5?

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[2956] A. I couldn't answer that where they could have gotten any information.

BY MR. FREEDMAN:

Q. Were you in touch with them personally? A. No.

Q. Do you know whether any of the other members of the Building Trades Council were in touch with them? A. I don't know.

Q. Is it your position then that the telegrams were unauthorized? A. I couldn't answer that.

MR. O'BRIEN: Objection, sir.

THE COURT: I will sustain the objection.

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[2958] Q. Do the rules of your organization require that the Executive Board shall consist of one delegate from each affiliated trade?

THE WITNESS: Will you repeat that question? I am not following it.

MR. FREEDMAN: I will ask the reporter to read it to you.

(Last question read)

[2959] THE COURT: What organization are we talking about?

MR. FREEDMAN: The Building Trades, the Building and Construction Trades Department, sir.

A. We have elections, the officers and no more than one from any one International is eligible to serve on the Board, but they are all elected. I don't know what you are driving at.

BY MR. FREEDMAN:

Q. Mr. Blumberg, I show you Plaintiffs'Exhibit No. 173, and I ask you to read that to the Court, and then I will ask you a question about it. A. Do you want me to read this?

Q. Yes, please, so that the Judge can hear it.

MR. O'BRIEN: What number is that?

MR. FREEDMAN: It is P-173.

A. This is a wire dated May 7, A. M., 11:08.

BY MR. FREEDMAN:

Q. 1951, isn't it? A. 1951. It is addressed to Roy J. Underwood, 121 North Broad Street, Philadelphia.

"Am informed Philadelphia Building Trades Council has ordered you to return your men to work [2960] on jobs where you have no contract Section 20 of the constitution and bylaws to govern local councils of the Building and Construction Trades Department provides that the Executive Board shall consist of one delegate from each affiliated trade and the president and secreetary who shall officiate as such and shall be entitled to a vote but no vote except in case of a tie when the president shall cast the deciding vote Local

542 I.U.O.E. has no member on the Executive Council in Philadelphia in spite of continuous protests by Local 542 reaction of the Council therefore has no effect since the Council has not complied with the law governing it. Arthur D. Hill for Wm. E. Maloney."

[2361] Q. Do you undestand that telegram? A. It doesn't make sense. I can't understand it.

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Q. In any event, there was no representative of the engineers on your Council at all, was there? A. There was none, that's correct.

Q. And there wasn't any in 1951 or 1952, was there? A. I don't believe anyone was elected.

Q. Now, you received a telegram from Local 542 on May 7, did you not, in which they severed their connection with the Building Trades Council? A. Is that this one here (indicating)?

Q. That's right.

THE COURT: Get me Defendants' Exhibit 37.

(Exhibit D-37 handed to the Court.)

BY MR. FREEDMAN:

Q. Did you understand my question, Mr. Blumberg? A. Yes. I thought His Honor was looking at something.

That was noted in the Executive Board's minutes of May 8, which we have here for the records.

Q. So that actually you received it on May 7; is that right? [2362] A. I don't have any date on here, the actual time that it was received.

Q. In any event, you had it before you went ahead with your meeting on May 8, did you not? A. That's right.

Q. And notwithstanding the severance of their connection from the Council, you nevertheless proceeded to bring charges against several individuals, did you not? A. That is the normal procedure.

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Q. Is it not a fact that you withheld that last action in order to keep it alive so that it would make newspaper publicity for the contractors?

[2963] MR. O'BRIEN: Objected to.

THE COURT: I will sustain the objection.

By MR. FREEDMAN:

Q. Mr. Blumberg, did you know that on prior occasions Mr. Maloney had instructed the engineers to disregard the pickets of the Building Trades Council? A. I have no knowledge of that.

Q. Let me show you Plaintiffs' Exhibit 176. Do you want to read it to the Court, please. A. "If picket of Building Trades Council is again placed on Easton, Pennsylvania, bridge job you are hereby directed to disregard the picket and keep engineers working in the absence of specific orders to contrary from the General Office."

Signed Arthur D. Hill for William E. Maloney.

I wouldn't know anything about that because it is outside of our jurisdiction.

Q. Mr. Blumberg, do you know Mr. Halloran, Harry R. Halloran? A. Yes, I know Halloran.

Q. How long have you known him? A. Well, it dates back quite a number of years.

Q. Who is he? A. He happens to be one of the contractors in the heavy [2964] construction.

Q. And he is the chairman of the Labor Committee for the employers, is he not? A. I believe so.

Q. He is the chairman who leads the collective bargaining negotiations, does he not? A. Well, I don't get into that much, because the heavy construction is not the affiliate of the Building Trades Council under contracts under heavy construction. Those trades negotiate themselves.

Q. Well, do you have occasion to come into contact with Mr. Halloran frequently? A. Socially once in a while.

Q. Only socially? A. Well, I wouldn't say all the time.

Q. Don't you have any business dealings with him? A. I haven't had, no.

Q. Hasn't the Council had any business dealings with him? A. Well, the Council—not as a council.

Q. Well, as what? A. I mention it because in the heavy construction the Building Trades Council don't come in under that contract. The trades negotiate their own contracts.

Q. Well, let me ask you, in 1951 and in 1952 did you have [2965] any conversations or any meetings or discussions with Mr. Halloran or any of his group? A. I would have to check that. I don't just recall.

Q. What would you have to check? A. If there was an occasion to be sitting down talking to him.

Q. I am talking about matters relating to Local 542. A. Well, the 542 situation was a general situation in the City of Philadelphia.

Q. Well, I asked you, what would you have to check? A. Just a question with reference to whether any occasion cropped up whether—

Q. I am sorry; I didn't want to interrupt you. What is it that you would have to refer to to refresh your recollection? That is what you would want to do the checking for, is it not? A. I mentioned the fact that if anyone else—there isn't anything the Council had as the Council, because they are not signers of an agreement with the heavy construction.

Q. What is it that you would have to check to refresh your recollection about any meetings or discussions that you might have had with Halloran or his group? A. I would have to check the notations, if anybody else [2966] had made any notation, just as a matter of information.

Q. I am talking now only about Local 542. Is that what you are referring to? A. Because it was a general situation in the City of Philadelphia.

Q. Is that what you are referring to? A. 542 was a general situation in the City of Philadelphia.

Q. I understand that; we all know that. I take it, then, that the papers that you have to check are right there in the folder in front of you, because you have said that you brought them all with you. A. Looking over my memorandum here I see that the only association in a letter noted here was the AGC, which the Building Trades had an agreement with.

Q. Referring to Local 542? A. That's right.

Q. May I see that, please. A. Yes (handing).

Q. Now, you have handed me three letters, dated June 24, June 27, and July 11. Are these the only notations in your file regarding the matter I referred to?

THE COURT: What year is this?

MR. FREEDMAN: All of these letters are dated 1952.

[2967] By MR. FREEDMAN:

Q. As you look at them, would you show them to me, too. A. Yes (handing).

Q. You have handed me another letter dated July 11, 1952. Is that all?

(The witness handed a paper to Mr. Freedman.)

Q. You have just handed me a telegram dated July 28, 1952, from Walsh-Perini-Groves-Slattery to you, Norman Blumberg, as Secretary-Treasurer of the Building Trades Council; is that right? A. That is right.

Q. Now let us take these one by one. Did you reply to any of these four letters that you gave me?

MR. O'BRIEN: May I see them first, please, Mr. Freedman.

MR. FREEDMAN: Sure (handing).

By MR. FREEDMAN:

Q. Mr. Blumberg, did you reply to any of these four letters? A. My recollection is that I don't believe so.

Q. What does your file show? A. I am just looking them up. Just noted letters received.

Q. Will you consult your file, please, and see whether [2968] or not you made answer to any of these four letters. A. I would have to go through. I note here on the minutes of June 27. All that the minutes note here:

"Secretary read two letters received from the General Building Contractors Association on this subject matter. The Executive Board's report supplemented by the officers covering all details in a four-hour session and the following recommendations: It was the Board's recommendation that the position of the Council remain status quo until this Friday meeting, June 27, when Representative Underwood agrees to take back to his Executive Board and recommend the reaffiliation with our Council as per our letter from the Council to the engineers under date of April 25, 1952. This will be submitted to the engineers' meeting in July for approval.

"Secretary reported that we received no letter from Underwood, in accordance with this understanding—and after a general discussion, it was moved and seconded that the recommendations be complied with. After another general discussion, Secretary requested guidance from Council insofar as how request of Secretary Taylor of the AGC would be handled. It was moved and seconded that Secretary give Taylor a report by telephone that the Council passed a motion that [2969] the Council will not support the engineers' strike in lieu of their not being affiliated with our Council. Motion carried."

Q. Did you respond to these letters by telephone? A. I think they were by telephone. To my recollection, I don't recall them having been answered in writing.

Q. Does your file show any copies which might be replies to these letters? Incidentally, will you place the date of that set of minutes, please, so that we have it on the record. A. The one I just read?

Q. Yes. A. That was under date of June 27, 1952.

This is the minutes of July 11, 1952. It is covered under Executive Board's report.

Q. Did you understand my question, Mr. Blumberg? A. What was your question?

Q. I think that I asked you whether your file there shows any copies which might be replies to these letters that you have given me. A. I just went through here, and the entire matter was referred by the general body to the Executive Board, and the Executive Board was handling it, and they are recommendations back to the general body. Now, I was just reading you the [2970] minutes of the Council.

Q. What I want to know is whether or not anyone responded to these letters that you have given me. A. I don't believe so.

Q. Either by telephone or by written communication. A. If there was any communication, a copy would be attached, but there was none, and it was not by communication.

Q. Then do you know whether it was by other than written communication? A. What was that question?

Q. Do you know whether it was a response by anything other than a written communication? A. I don't know that it would have been other than what the minutes contain in the action of the body.

Q. Did I understand you correctly to read before that the minutes said something about communicating by phone concerning these letters with the contractors? A. No. I will try to find it and read to you the minutes as they exactly appear.

Q. You can look at that and answer my question if you think that you have to refresh your recollection. A. Under date of June 27 the motion was:

> "It was moved and seconded that the Secretary give Taylor a report by telephone that the Council [2971] passed a motion that the Council will not support the engineers' strike in lieu of their not being affiliated with our Council."

Q. Isn't that unusual, to report by telephone? Was there something secret about it that had to be said?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

Read the question back.

(The last question was read.)

THE COURT: On hearing it re-read, I will sustain the objection. There are two questions there.

By MR. FREEDMAN:

Q. Well, let me break it up. Was it unusual to report by telephone rather than by written communication of a letter received? A. Not necessarily.

Q. Wasn't it your practice to respond with a written communication in response to a letter received? A. The practice is we would normally answer any communication.

Q. So that this was a departure from the practice? A. I said not necessarily, because not in all cases.

Q. Was there something secret about it or something that you didn't want published, that the Board or that the Council [2972] instructed your representative to communicate by telephone rather than by written communication?

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Q. Was there something secret about this response that you didn't want to put it in writing? A. There was nothing secret about anything that the engineers or the Building Trades were doing.

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Q. And yet you have no memorandum of discussions or meetings with Halloran at all in your file, have you? A. I stated that because we are not in agreement as a master agreement with that organization.

Q. But you do admit, don't you, that Mr. Halloran got in touch with you in May of 1951 or shortly prior to May of 1951 regarding this strike?

MR. O'BRIEN: Objected to.

A. I did not say that.

[2973] By MR. FREEDMAN:

Q. You don't admit that? A. I didn't admit that.

Q. Do you deny that at any time in 1951 Mr. Halloran got in touch with you or your Council regarding the strike in 1951? A. I couldn't answer that. I stated that I have maybe socially ran into Halloran at an affair.

Q. I am talking about the official business of Local 542. A. Not with me, no.

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[2975] Q. Mr. Blumberg, you testified before that Mr. Pantaleo appeared at one of your meetings to take up something. Was he invited to appear or did he come voluntarily of his own initiative? A. He came at the instructions, as he mentioned, by the business manager to ask support of the Council.

Q. Wasn't he invited to appear by the Council? A. Not at that time.

Q. Take a look at your minutes, will you, please. A. I have the minutes.

Q. What is the date of that meeting? A. That was June 13, 1952.

Q. Now, having refreshed your recollection from those minutes, isn't it a fact that the Council invited Mr. Underwood to appear and he sent Pantaleo? A. I don't recall that he was invited, other than he was there.

Q. What do the minutes say? A. The minutes say, "Business Representative Peter Pantaleo [2976] was in attendance at this meeting."

Q. You are only reading part of the sentence, aren't you? What is the beginning of that sentence? A. "Upon invitation of Roy Underwood."

Q. That is right. A. Well, I stated he was there at the request of Roy Underwood. Roy Underwood was invited to appear.

* * * * * * * * *

[2279] Q. In fact, you had the Levittown job under discussion at that meeting, did you not? A. Yes, the—.

Q. And isn't it true that you called in Mr. Underwood or you invited him to get his support in connection with the Levittown project? A. I don't remember.

[2980] Q. Don't you remember discussing it with Mr. Underwood personally? A. Yes, I have talked to Mr. Underwood.

Q. About the Levittown project? A. I don't recall what I may have talked about to him other than the general situation of reaffiliation.

Q. And didn't you try to enlist Mr. Underwood's support in connection with the Levittown project? A. I would have to check that.

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[2981] Q. Don't you remember that the engineers did support your strike against the Levittown project? A. I think they tried to give support.

Q. And don't you remember that you asked Mr. Underwood not to sign a contract with the Levitt people until you had gotten one? A. I don't recall.

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[2985] Q. Now, after you got these letters from the contractors asking you for relief, you authorized a phone call to the contractors telling them that you weren't going to support the strike; is that correct?

A. That was the instructions from the Council, to notify them.

* * * * * * *

[2989] Q. Was there any reason why you should give any comfort to the contractors in a situation where another labor union was engaging in a strike against it?

MR. O'BRIEN: That is objected to, sir.

THE COURT: Sustained.

BY MR. FREEDMAN:

Q. Was any memorandum made of the telephone conversation between—who was it, Mr. Craig—and who made it? Who was assigned to make the telephone conversation? A. No. There was no notation in here on that.

Q. Well, who was supposed to make the telephone call to the contractors? A. According to the minutes, the secretary was to make the call.

Q. Who was that? A. Myself.

Q. Did you make it? A. No.

Q. Who did make it? A. The assistant business manager made the call.

Q. Who was that? A. James L. Loughlin.

Q. Did he make any memorandum of his conversation? [2991] A. I couldn't tell you that.

Q. Well, wouldn't it appear in this file if he had made any? A. Not necessarily.

Q. Well, I thought that you were supposed to bring all papers relating to 542 covering the years 1951 to 1952 here. A. Well, a telephone call carried out the instructions of Council. That would finish it.

Q. I asked you whether a written memorandum was made of that telephone conversation. A. I stated no.

Q. I take it, then, from that set of minutes or from the action of your body at that time at that meeting that you decided to cooperate with the employers because you had not yet gotten the letter of reaffiliation; is that correct?

MR. O'BRIEN: Objected to, sir.

THE COURT: I will sustain the objection.

MR. FREEDMAN: May I ask on what grounds sir?

THE COURT: You may ask; but I won't tell you. It is objectionable.

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[2996] Q. Well, who was the everybody who was asking for relief? A. Anyone that we had contracts with involved in these various jobs.

Q. And which contractors were they? A. Well, I couldn't memorize who they were.

Q. Well, was Halloran one of them? [2997] A. I couldn't memorize who they were.

Q. Well, were they contractors belonging to the General Building Contractors Association? A. They would be contractors that involved on all these jobs.

Q. Did the Building Trades Council have any kind of a master contract with any of these associations? A. They had a—they have a master contract with the AGC.

Q. And did you have one with Mr. Halloran covering Mr. Halloran's working? A. We had no contract with them.

Q. He refused to give you one, didn't he?

MR. O'BRIEN: Objected to, sir.

THE COURT: I will sustain the objection.

By MR. FREEDMAN:

Q. Now, in your discussions with these contractors that you mentioned a moment ago or with the contractors' representatives, did you tell them that you were not going to support, that the Council was not going to support the engineers 'strike?

MR. O'BRIEN: Objected to, sir.

THE COURT: Overruled.

THE WITNESS: I did not tell anyone anything [2998] in respect to that, because the information was given to the secretary of that association.

By MR. FREEDMAN:

Q. Your Council had authorized your representative to tell the contractors, had it not? A. That is right.

Q. That it would not support the engineers' strike? A. According to the minutes I just read; yes.

Q. And by so doing didn't you appreciate that you would encourage the employers to hold out longer against the engineers?

MR. O'BRIEN: Objected to, sir.

THE COURT: I will sustain the objection.

[3003] By MR. FREEDMAN:

Q. The Council adopted a resolution at the meeting you mentioned before stating that it would not support the [3004] engineers' strike; is that right? A. That is correct.

Q. And in reaching that decision was there any discussion on the floor concerning the letters from the contractors? A. No.

Q. Never mentioned? A. No, the letters weren't mentioned.

Q. Well, what was mentioned— A. The mere fact that we received no letter on the question of reaffiliation was the cause of rescinding our action.

Q. Was the substance of the letters discussed at that meeting? A. No.

Q. Not even mentioned? A. The only one I just mentioned was the one I read off from the minutes, the one Taylor, Secretary of the AGC, with who we have a master agreement.

Q. And that letter was read off to the membership of your Council? A. That was read off to the Executive Board.

Q. And how many in your Executive Board? A. There are nine people on the Board.

[3005] Q. Nine people on the Board, and was that letter discussed? A. Only a matter of letter from the people with whom we have an agreement.

Q. Was the subject matter of that letter discussed, that is, the request for relief by the employers? A. Well, the subject there was discussed in so far as our agreement with them and they perhaps may raise the question if we were in violation of our agreement, and that's one of the points we wanted to discuss with the General Presidents in Atlantic City.

Q. That you were in violation of your master agreement how? A. If we would take the action that we contemplated.

Q. What action was that? A. That was the action by the Building Trades Council that we were going to refuse to work on any job that the engineers were working, in order to bring this thing to a head. That is the message were were taking to the General Presidents in Washington.

Q. Well, that is what the contractors wanted, wasn't it?

MR. O'BRIEN: Objected to.

A. I couldn't say what the contractors wanted. That is what we wanted.

MR. O'BRIEN: Wait a minute, Mr. Blumberg. [3006] There is an objection.

THE COURT: I will overrule the objection. He has answered it.

By MR. FREEDMAN:

Q. What I was asking you preceded what you are talking about now. I am asking you whether or not, after Mr. Taylor's letter was read to your Executive Board, didn't you consider at that time the requests for relief by the contractors? A. No, not until we discussed the whole matter with the Board and then with the people in Atlantic City.

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Q. Now, when you went to Atlantic City—incidentally, [3007] before I get to Atlantic City, you talked about some surveys that you made here. When did you make those surveys? A. When or where? What was the question? I didn't get it.

Q. I said, when did you make those surveys? A. During the period of from May 1 up until—

Q. Now, when was the survey actually made? A. There was a continuation of the survey.

Q. When was it started? A. It was started when the action of the engineers and their strike.

Q. What was the date of that? A. That was May 1, 1951.

Q. You started your survey, actually started to make the survey, on May 1, 1951; is that what you mean? A. No, not exactly on the actual date.

Q. Well, when did you start your survey? A. Oh, not until about the middle of May.

Q. You actually started to make your survey about the middle of May? A. Well, when we say "make a survey," we have the Dodge reports and the records and everything else there.

Q. Who made the survey? [3008] A. That survey was made by myself along with the representatives and all of the unions, the agents involved.

Q. Who authorized this survey? A. The Council and the Executive Board authorized that survey.

Q. Is there a set of minutes, is there a resolution on it? A. I would have to check the records.

Q. Check it, please. A. I know it is not here.

Q. I know it is not there, too, because I looked. Where else would it be? A. Well, when they placed the matter in the hands of the Executive Board, the Executive Board was authorized to proceed with full power to go all the way down the line.

Q. Well, didn't you make any memoranda of the decisions and the activities of the Board? A. I didn't keep any memorandums. It was all compiled in so far as records coming in.

Q. Where is the compilation? A. Contained in the memorandum that I gave you.

Q. Is that all the memoranda you have? A. That is it.

Q. Well, actually, all that you have got there is these [3009] letters that you have shown us and a set of minutes and one other paper that you have identified. Is there anything beyond that? A. I don't have any here. I would have to double-check if there is anything else that you want.

Q. Well, it is possible you haven't brought all the

papers here with you? A. I have brought all of the papers of 1951 and 1952 in accordance with the subpoena.

Q. It is your recollection that there was a resolution authorizing the survey to be made? A. It would not necessarily be a resolution.

Q. Well, did you take it upon yourself to make that survey? A. No, that is an action requested which we normally do.

Q. Well, who requested it and when? A. I say that that was a normal procedure in so far as making a survey of employment, unemployment records, which we normally follow through.

Q. Now, just exactly what did you do in connection with that survey? I would like you to tell us every step of the way. A. Well, the first step we take is from the Dodge reports [3010] in so far as all of the jobs. You will note—

Q. Did you personally take the Dodge reports? A. You will note these minutes that we have here, the jobs are all listed on the back of these minutes.

Q. I wasn't permitted to look at that, so you will have to tell me about it. A. I beg your pardon?

Q. I say, your counsel wouldn't permit me to look at that, so you will have to tell me about it. A. Well, they are all noted. All of the various jobs in that period of time are listed. The Dodge reports, naturally, show the amount of monies involved and who the contractors are. We transcribed that over to these minutes which is noted.

Q. I want to know what you did first. A. That's what's done here.

Q. What did you do? I want you to tell me every step that you took in making this survey and when. A. The survey, in so far as these various jobs that I called off, are taken from the Dodge reports, transcribed to the minutes. We then check in so far as the contractors are concerned who they are. Then we ascertain from the reports—

Q. I am asking you. When you say "we"—

[3011] THE COURT: Just a minute, Mr. Freedman. There was apparently a completely logical explanation of something about his activities that the jury wants to hear.

Now pick up that answer and then let Mr. Blumberg continue.

MR. FREEDMAN: I wasn't trying to stop him. I wanted him to say from his personal experience. He was using the term "we," and all I wanted him to do was to say from his personal experience and to use the term "I" when he knows personally.

THE COURT: Lawyers are pretty keen to get specific things. A layman doesn't talk the way a lawyer has to talk, and, consequently, if he strays and put in a few editorials, and so forth, I am going to ask you to pick it up with him later.

MR. FREEDMAN: Well, sir, if he uses the term "we" for "I" it is perfectly all right we so long as we understand it.

THE COURT: Well, you can find that out, but I do want to get his answer. You have asked a broad question and the witness is entitled to give a broad answer, then you can get specific with him.

[3012] Read that question and read his answer in so far as it has gone, and I want you, Mr. Blumberg, to finish completely what you intended so say before we have anything further.

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THE COURT: Go ahead.

THE WITNESS: We ascertain from the reports with reference to the amount of monies involved. They are then called off in the Building Trades Council meetings. The various agents report whether they have started with their men, the number of people they have on the job, and in making the survey, when they kept reporting various jobs were stopped over the strike—how many men do you have involved—and

that is the way that information is given, in order to at least compile the figures that I had given.

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[3015] BY THE COURT:

Q. And as I understand it, the Building Trades Council had knowledge of all of the jobs in Philadelphia that in connection with Dodge reports, which I suppose are the Building Trades reports, the dollar volume of the jobs was put on, and then at the weekly meetings of the Council that you would get from the different business agents in the affected area who was working and who wasn't working, and that in that way you kept a running account; is that right? A. That is right.

Q. From week to week? A. That is right.

Q. And it was on the basis of that, as I understand your testimony this morning, that you calculated the figures to which you testified this morning? A. That is right.

Q. You were helped by whom? Loughlin and who else helped you in what we will call "a survey" for want of a better word? Who helped you in the compilation of those different factors that you considered in your survey? A. That is the office staff as well as all of the agents affiliated with the Council.

Q. Well, you have 120 busineess agents? A. That is right. Right.

[3016] Q. And as they would make the reports would your office staff jot down the information? A. Yes. They would jot that.

Q. At the meetings? A. At the meetings it would be taken.

Q. Taken by one of your office staff. How big an office staff do you have, Mr. Blumberg? A. Two girls.

Q. Two girls. They made notes as the meetings went on, did they? A. No. The girls are not in the office. I make my own notes.

Q. Oh, at the time of the meeting? A. That is right.

Q. All right; now, would Loughlin be in on the meetings, too? A. Oh, yes; he would be in on the meetings.

Q. Is he your assistant? A. He is the assistant—

Q. Was he? A. He is still the assistant business manager of the Building Trades.

Q. Who is the business manager? A. The business manager happens to be James L. McDevitt.

[3017] Q. Oh, and Mr. Loughlin was his assistant? A. Assistant; right.

THE COURT: I see. All right, go ahead.

By MR. FREEDMAN:

Q. Now, when you used the term "we" before, were you talking about yourself or were you talking about somebody else in addition to yourself? A. I meant everybody inclusive giving their reports to me at the meeting.

Q. Well, when I asked you who compiled all of this information, what I wanted to know was who was getting all of the information from whom? Now, were you the only one that was getting all the information? A. Not necessarily, because it all filtered into the office and compiled by the office staff.

Q. Well, I thought you said that you took all the notes yourself. A. In the meeting.

Q. Yes. And was there any other information which came in? A. Not more than what I mentioned.

Q. So that you only got it at the meeting; is that right? A. And the Dodge reports.

[3018] Q. Right. Now, what is this business about filtering into the office? A. Through the agents and reports to the meeting.

Q. Reports to the meeting at the meeting? A. In the meeting.

Q. When you say, "filtered," then you mean filtered in at the meeting? A. That is right, filtered in; yes.

Q. And you made memorandums of those? A. Yes.

Q. You made notes of those reports that were given? A. Yes.

Q. Where are those memoranda? A. Well, they are just notes that are made and transcribed insofar as com-

pletion as instituted here. I wouldn't have slips of paper laying around.

Q. You wouldn't have slips of paper? A. No, no. The minutes here is what we have.

Q. Well, when you have a series of statistics you didn't put those in the minutes, did you? A. The statistics is noted in the back of the minutes that I mentioned a moment ago, including the Dodge reports.

Q. How about the agents' reports? A. Agents making reports are verbal.

[3019] Q. Well, are they in the minutes? A. No.

Q. So that the only record of what the agents said is what you took down; is that right? A. What I took down; yes.

Q. Yes. Now, what did you take it down on? A. On a piece of paper.

Q. No regular systematic way of doing it?

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A. No regular outside of what I repeated before.

By MR. FREEDMAN:

Q. What did you do with all of these pieces of paper?

A. Is that a question?

By THE COURT:

Q. The original notes that you made, what did you do after you made them, when the meeting was over? Now, the business agents are gone home. You had certain written memoranda there given to you by the agents at the meeting. [3020] The question is, where did you take them and what did you do with those slips of paper at that time? A. Well, those pieces of paper would be—naturally would be destroyed.

Q. They would be destroyed; I assumed that, Mr. Blumberg; but before they were destroyed the information on them was taken off by whom, by your girls? A. That information was checked off by the assistant business manager and myself in the office and then compiled as read off in that memorandum that I gave here.

Q. I see. Well, that is the question that you were asked, that I previously asked. After these slips of paper had served their purpose— A. That is right.

Q. —what did you do—just tear them up and throw them away? A. That is right, destroyed them, because they were of no further use.

Q. It was a change in the situation week to week, wasn't it, pretty much? A. Well, when this was completely compiled the change was completely there as noted in an approximate figure. It could.

THE COURT: All right.

[3021] By MR. FREEDMAN:

Q. You did it from week to week for how long? A. For the approximate period of I would say a couple of months.

Q. About three months? A. Somewhere around there. I don't have exact figures.

Q. Now, if I understand you correctly, what you did was take the figures—that is, notations that you say you made at these meetings—and you put them on something else; is that correct? A. No. I—the memorandum that I gave here arrivng at an exact figure or an approximate figure of the number of man-hours, the volume of work and the moneys involved, we were interested in compiling that because we wanted to definitely ascertain the losses incurred by our people over this question of strike.

Q. Are you all through? Are you through with your answer? A. I beg your pardon?

Q. Are you through with your answer? A. Yes.

Q. I just wanted to make sure, because I didn't want to cut you off.

Now, this was a week-to-week proposition, wasn't it?

[3022] A. As the strike went on.

Q. Sure.

Now, how long did you keep these pieces of paper? Did you take the notations off the pieces of paper weekly or did you just keep them indefinitely? A. That was com-

piled on the completion when we went to Atlantic City so as we could present the case to the general presidents.

Q. You mean you held all these pieces of paper? A. No.

Q. Until August? A. No. We compiled that memorandum that I showed you.

Q. When did you compile it? A. Oh, the—maybe a week or two prior to going to Atlantic City.

Q. And you made that compilation from, you say, all of these pieces of paper that you have kept in your possession since May, the middle of May, 1952, is that correct? A. Yes.

Q. And then you threw the pieces of paper away? A. No, I said the pieces of paper were destroyed after we completed everything.

Q. I say that after you made the compilation, as you say you did, you then threw the pieces of paper away? [3023] A. That is right.

Q. Now, did you take these specific figures off week by week and month by month? A. That was compiled as the reports indicated in the minutes, in the Dodge reports, in order to reach the volume

Q. Just so that we get it straight, these reports you are talking about that are in the minutes only refer to the Dodge reports; is that correct? A. The Dodge reports, the verbal reports given by the agents with reference to the number of man-hours, and the number of men employed; the number of men employed wouldn't be in the Dodge reports.

Q. Mr. Blumberg, do you understand my question, was there anything, any statistics you are talking about other than the Dodge reports that you will find were in the minutes, that are in the minutes? Do you understand that question? A. Yes, I understand the question.

THE COURT: Will you pass it over to me and let me examine it, please, just the June minutes.

THE WITNESS: This is all minutes of 1952.

By THE COURT:

Q. I see that in some of these you have the amount of the contract, in others not. A. That is right.

[3024] Q. But I don't see anything in here. Perhaps you could look and see whether there is. Did you make a note of unemployment in these minutes? A. No.

Q. You did not? A. No.

THE COURT: That is what I wanted to look for.

MR. FREEDMAN: What was my question, my last question, please, Mr. Reporter?

(Last question and answer repeated by the reporter, as follows:

"Q. Mr. Blumberg, do you understand my question, was there anything, any statistics you are talking about other than the Dodge reports that you will find that were in the minutes, that are in the minutes? Do you understand that question?

"A. Yes. I understand the question.")

By MR. FREEDMAN:

Q. Now, in compiling all of this information that you said you got at these hearings or at these meetings, rather, did you take them off on one master sheet? A. Taken the jobs off of a—

Q. No. I am talking about the reports of the agents, not the jobs. [3025] A. No. That is given as verbal on the floor.

Q. I understand that, but you said that you made notations on certain pieces of paper. A. Yes.

Q. What kind of paper was it? A. Ordinary scratch sheet.

Q. Was it just plain scratch paper or was it— A. Scratch paper.

Q. Or was it a regular book? A. No—scratch paper.

Q. Well, didn't you consider that information important? A. Well, it was important to complete the memorandum that I did.

Q. Well, don't you think it should have been in some official form or permanent union records?

MR. O'BRIEN: Objected to.

THE WITNESS: Not necessarily.

THE COURT: Overruled.

By MR. FREEDMAN:

Q. Now, what kind of scratch sheets were they—just plain pieces of scratch paper? Is that what you are trying to tell us? A. Well, you say a scratch pad—you know, a scratch pad.

Q. White or yellow? [3026] A. I didn't say yellow. I said scratch pad.

Q. Well, I say, what color were they? A. Oh, color? Pardon me. Normal scratch sheets that we use, 5 x 9, I guess, white sheet.

Q. 5 x 9 white sheet? A. White sheet; yes.

Q. Did you put dates on those sheets? A. No.

Q. What did you put on those sheets? A. Just the information that we received from the agents.

Q. Now, what information was that that you put down? A. The number of people that were—should be on the job, the number was out, and the question, if we needed the volume, that didn't appear in the Dodge report insofar as volume of work.

Q. How long did your meetings take? A. Meetings? Meetings started 9:30, run various times, sometimes 1, 2:30 or 1:30. All depends on the amount of business.

Q. From 9:30 P. M. till 1:30 or 1 o'clock A. M. A. In the afternoon.

Q. Now, during that period you say 120 agents reported in addition to the other business transacted by the Council? A. The agents, the Council, is made up of approximately [3027] the one hundred and—it varies with reference to them. It might be 90 or 110 at a meeting, 120.

Q. Well, I understood you to say before that 120 agents reported— A. That is right.

Q. —at every meeting? A. That is right.

Q. Is that right? A. That is right.

Q. And how long was each report? A. How long was what report?

Q. Each report of the 120 agents. A. An agent can get up and make a report in a couple of seconds.

[3028] Q. And what would he report on? A. When they make this report on this caption under the minutes—engineers question—and when the answer is given. How many men do you have out, so and so, down the line.

Q. "How many men do you have out?" I just want to be sure I understand you correctly. The question would be what? Who would be asking the questions? A. It would come from the chairman.

Q. And who is the chairman? A. The chairman was John Cregan.

Q. Now, as a man got up—what did he do, call on the various unions, union by union? A. Right.

Q. And you were taking the minutes? A. Yes.

Q. Did you make a note of the names of the men who were reporting? A. Just as they called them.

Q. You made a note of the names of the men? What is your answer? A. Yes. The trade, not the particular name of a man, but the trade. They call off the alphabet. Asbestos [3029] workers, how many men do you have off on account of this strike?

X number; that is the number.

Q. How many agents from the asbestos union did you have there? A. How many?

Q. Yes, how many are there? A. Two.

Q. Two agents from the asbestos union. Out of 120 you had two of those. What was one of the big unions? A. What?

Q. You had some big unions there with a lot of agents, didn't you? A. Well, only one agent reports for the entire group.

Q. Only one agent reports for the entire group? A. For their group.

Q. For the entire group. I see. Then he must have gotten his information, according to you, from some other

sources; is that right? A. From the other agents that is affiliated with his Council.

Q. Did the other agents make reports too? I thought you said before that 120 agents reported. A. I said there is 120 agents present.

[3030] Q. If I understand your testimony correctly, you said 120 agents reported. You said that in answer to a question. A. Directly or indirectly.

THE COURT: If you heard it, I didn't Mr. Freedman. He said the Council was composed of that many people.

MR. FREEDMAN: And he said, as I remember it, in answer to Your Honor's question, that these agents would get up and report, and there were 120 agents, leaving the very clear inference, sir, that these agents would each report, each of the 120.

THE COURT: If you got the inference it went right over my head. I didn't.

By MR. FREEDMAN:

Q. Now, just what else would they say besides, "How many men you got out?" Is that what the chairman would say, "How many men have you got out?" A. That's right.

Q. Wouldn't he ask what jobs? A. Not necessarily.

Q. Well, did he or didn't he? A. It wasn't necessary to name all the jobs after they [3031] were all enumerated in the beginning.

Q. In what beginning? A. When they determined all of the various jobs were affected.

Q. Well, now, what jobs were affected. Did you have jurisdiction over all the building trades at the time? A. All of the jobs that I read off this morning.

Q. Did you have jurisdiction over the Heavy and Highway? A. We had jurisdiction only in the five-county area over construction.

Q. Does that cover the Heavy and Highway? A. Well, that affected other trades who are affiliated and are affected.

Q. Did you understand my question? A. I think I did.

Q. I asked you whether it covered Heavy and Highway. The answer is yes or no. A. It would cover everything.

Q. Did you have a contract covering Heavy and Highway? A. Building trades don't.

Q. Did you have any agents reporting on Heavy and Highway? A. Because it affected the entire city and the welfare of the membership as a whole.

[3032] Q. Did you understand my question? A. Yes. They reported it in a general way. It affected everybody.

Q. Did you have agents on jobs where you had no contracts? A. I couldn't tell you what jobs the agents were on because I wasn't with them.

Q. Sure, and your agents didn't have jurisdiction over all of the jobs, did they? A. I wouldn't say that because I wasn't with them.

Q. Well, you know that you didn't cover contractually the Heavy and Highway? A. But the agents in the Council do have agreements with the Heavy and Construction, and they are in the Council, but we don't negotiate any contracts for Heavy Construction.

Q. And those agents would have to get whatever information they had by hearsay from somebody else, wouldn't they? A. I don't know where they got it from. All I know, they made the reports in the Council.

Q. Now, do the minutes of the meetings show at any place that there were such reports and questions by the chair made at the meetings? A. No, it wouldn't show in the minutes.

* * * * * * * *

[3043] Q. I think, before I started to identify the documents, that I had been asking you about the method of your compilation in connection with this survey that you had carried on. Now, you did identify certain pieces of

paper. You said you put all your notations on 5 x 9 white scrap sheets; is that right? A. Yes.

Q. Where did you keep those 5 x 9 white scrap sheets? A. They were all just destroyed after the meeting.

Q. Where did you keep them—after each meeting? A. Yes, until the whole thing was completed.

Q. Well, just a moment. You say they were destroyed after each meeting? Is that what you said? A. Yes.

Q. Well, where did you store the information? A. This information was gotten together within the course of a few weeks. It wasn't a procedure that you are running through the year.

Q. I thought you said you started in the middle of May [3044] and you ended about the end of the first week of August, close to three months. Is that how long it took you to make the survey? A. Telling our people, telling the agents to check and for them to bring in the reports. It would have taken them several weeks to at least check.

Q. Well, now, when did you get your first report? A. Why, I wouldn't remember just exactly any date on that.

Q. And nothing, not a word about this, was said in the minutes? A. No.

Q. Even though the chairman would question at least one delegate or one agent from each trade? A. That memorandum that you have, when completed, was read off to the Council, told them what we had found.

Q. Did you understand my question? A. Go ahead with your question.

(The reporter read as follows:)

"Q. Even though the chairman would question at least one delegate or one agent from each trade?"

A. That's right, because it wouldn't be done at each meeting.

[3045] Q. I think you said a moment ago that you destroyed these papers, these 5 x 9 sheets, at the end of

each meeting; is that correct? A. That's right, the notes that I had.

Q. The notes that you had? A. That's right.

Q. Well, were there any other notes? A. I don't know.

Q. You don't know of anybody else making notes, do you? A. I don't know because all they were doing is making reports.

Q. Sure, and you were making notes, so you say. All right, now, you destroyed them that night. What did you do with the information? A. Compiled it for the purpose of when it was completed.

Q. What? A. Compiled when it was completed.

Q. How did you compile it? If you destroyed the paper, how did you compile it? A. Just a matter of when the conclusion was made.

Q. Well, if you destroyed a paper at the end of a meeting each week, as you say, where would you put the information? A. Well, that would be put on another scratch sheet until [3046] the whole thing was compiled.

Q. You say you would put the information on another scratch sheet? A. Yes.

Q. How big was this other scratch sheet? A. It could be the same size sheets.

Q. Well, what was the purpose of putting it on another scratch sheet the same size? A. Because as you get the information then you compiled it, and when you compiled the whole thing, transcribed it into that memorandum, it was a complete figure.

Q. Now, so that I get you straight, when did you do this? At the end of each meeting? A. When the reports was made, which wouldn't be made at every meeting.

[3047] Q. Well, whenever the reports were made you would get those scraps and then the same night, you say, you would transcribe that information on another scratch sheet of the same size; is that right? A. Yes, until we were ready to complete the whole thing.

Q. What I want to know now is what you had on the original scratch sheets and what you put on the new scratch sheets. A. I wouldn't remember that now.

Q. You wouldn't remember what you put down on your original scratch sheets? A. No, not to have all of the trades and try to memorize everything of all of the trades, because we were given one complete figure.

Q. I am not asking you about figures now; I am only asking you about the nature of the entries which you made. You don't even remember what entries you made on each of the scratch sheets? A. I wouldn't remember it from that date between 1951 and 1952, and in 1952 I wouldn't remember.

Q. When I say each of the scratch sheets, I mean the two different types of scratch sheets, the original scratch sheet that you said you had and the scratch sheet to which you transferred the entries that you made. Now do you [3048] understand me? A. Yes, I think I do.

Q. Your answer is you don't remember what you had on those sheets? A. I wouldn't remember to figure out each scratch sheet now.

Q. Well, didn't you have a definite routine set of entries on each scratch sheet? A. No, we don't have any definite routine on compiling a matter of that sort.

Q. Well, if you are going to make a survey and a set of statistics, don't you have to have a systematic check on the same kind of entry? A. If we were following a complete survey throughout the year for a general situation, but this was only involving one question, and that is, what damage was our people getting through the action of the engineers, period. Now, that is the only purpose of that.

Q. All right, then, it ought to be very easy for you to tell us just what entry you made on your sheets, if that is all there was. A. I wouldn't remember back that far, what particular entry was made.

Q. Well, did you have more than one entry? [3049] A. Naturally, we would.

Q. On an original scratch sheet? A. Sure, there would be more than one entry.

Q. Well, what would they show? A. They would show the number of people involved.

Q. The number of people involved in what? A. In this stoppage, loss of work.

Q. What did you put on your paper? Did you put the name of the job or where it was? A. No, not necessarily.

Q. Did you put the name of a contractor? A. Not necessarily.

Q. Well, what did you put down? A. Just the number of man-hours lost in the general situation.

Q. In other words, on your original—I am talking about the original scratch sheet as you reported from what the agents were telling you at a meeting—all you would put down would be the number of man-hours lost; is that what you are saying? A. That's right, for that trade.

Q. Nothing else? A. That's right.

[3050] Q. When you say man-hours lost, are you talking about men actually out of work or men that might have had jobs on a different project? A. Men who lost time due to the stoppages on those jobs.

Q. Men who lost time due to stoppages on jobs? A. On the jobs that were affected.

Q. Now, that involves a very, very detailed bookkeeping study, does it not, Mr. Blumberg? A. It wasn't necessary to keep a detailed bookkeeping.

Q. How could an agent get that information? A. Because Agent A going on various jobs of his people, he knows the people that are reporting to his office, and if he has 500 men in his union and 200 men are showing up at his day rom—"Why are you out?"

"I am on so-and-so."

That is all he was concerned about. He had 200 men out of his 500.

Q. Let us just take that statement. In other words,

the agent, according to your information, would base his figures on the number of men who were absent or who were in the day room; is that right? A. I said who were there due to unemployment caused by [3051] the stoppages on these various jobs.

Q. Now, did the agents, do you know, make any records of these stoppages or these particular men who were out of work on any particular job? A. I wouldn't know.

Q. And do you know whether these men who would report to the day room—do you know how long they would be in the day room before they would be reassigned work elsewhere? A. I wouldn't know that either.

Q. So that if a man was laid off a particular job, you would have no way of knowing whether he was re-employed the next day or the same day, for that matter? A. Only on the reports of the agents to the meetings on Friday.

Q. Were they written reports? A. No.

* * * * * * *

[3053] Q. Now, you say you destroyed the original entries that you prepared as these agents, as you say, gave you the information. Now, what did you do with the other entries rather than the other pieces of paper that you had? A. The only thing we retained was when we compiled this memorandum that is on the record.

Q. When you say this memorandum, you are talking about P-195; is that right (handing to the witness)? [3054] A. Yes, this is the one I am referring to.

Q. Is that the only piece of paper that was retained as a result of your survey? A. That is the only thing that I can recall as the survey made or memorandum for our own information and to deliver to the presidents that we visited in Atlantic City.

Q. That is what you call a survey, this P-195? A. I call that a memorandum.

* * * * * * * *

Q. If this was intended to be a memorandum for any purpose or a survey, why wasn't it so entitled, Mr. Blumberg?

MR. O'BRIEN: Objected to.

THE COURT: I am going to sustain that objection. Mr. Blumberg is here as a witness, and he is not called [3055] upon in retrospect to go back and have criticism leveled at him for his manner of doing things. He told you clearly on at least four occasions that he got this for a specific purpose, how he did it, and so forth. Now, it is entirely clear to me, and I don't think any further questioning about it will help you or your client or hurt anybody.

* * * * * * *

[3230] Q. Mr. Blumberg, you have now produced certain additional documents, among which are two papers which have been marked P-202-A and P-202-B, and I ask you to examine them and identify them, please. A. Do you want them read?

Q. All right. Now, first give us what P-202-A is. Tell us what P-202-A is. A. 202—

MR. FREEDMAN: If the Court please, maybe I had better identify them for the record. I neglected to do that.

P-202-A is a telegram dated May 4, 1951, from James L. Loughlin to Roy Underwood.

P-202-B is a copy of a letter dated May 4, 1951, from James L. Loughlin to Mr. Harry Taylor. It is [3231] timed 5:10 P. M.

By MR. FREEDMAN:

Q. Now, Mr. Blumberg, I direct your attention, first, to P-202-A, the telegram, and I ask you whether you sent that telegram. A. No. I did not send the telegram.

Q. Who sent it? A. James L. Loughlin, Assistant Business Manager.

Q. Was it with your knowledge? A. Yes.

Q. Will you read it to the Court, please. A.:

"May 4,1951.

"Mr. Roy Underwood, Business Manager

"Operating Engineers Union Local #542
"City Centre Building, 121 N. Broad St.,
"Philadelphia, Pa.

"STRAIGHT WIRE.*

"The Building and Construction Trades Council, at its regular meeting today hereby orders officers of Local Union #542 to return their members back to work at once. The officers of Local #542 are hereby instructed to appear before the Executive Board of this Council on Tuesday, May 8th at 1:30 P. M. Sharp.

[3232] "James L. Loughlin
"Assistant Business Manager

"Copy of telegram sent to
"Mr. Harry Taylor, Secretary
"A.G.C. Friday—May 4, 1951.*"

Q. Was that telegram sent to Mr. Taylor at Mr. Taylor's request; do you know? A. I couldn't answer that.

Q. Now, will you examine P-202-B, please. A. P-202-B?

Q. Yes. Will you read that to the Court. A. It is dated May 4, 1951, 5:10 P. M.

"Mr. Harry Taylor, Secretary
"General Building Contractors' Association
"#210—Architects Building
"17th and Sansom Streets
"Philadelphia, Pa.
"Dear Mr. Taylor:

"Supplementing our telephone conversation of to-day and as per request made by you and Mr. Blumberg, we are enclosing herewith copy of telegram requested sent to Mr. Roy Underwood, Business Manager of the Operating Engineers Union Local #542 [3233] which is self-explanatory and for your records.

"Sincerely yours,
"For: James L. Loughlin
"Assistant Business Manager"

[3243] Q. Mr. Blumberg, I asked you Monday whether you were required under the constitution to have a member of each trade on your Executive Board, and I think you answered no to that question; is that correct? A. I believe so.

Q. Doesn't your local constitution require you to have a member of each trade on your Executive Board? A. Not necessarily.

Q. Are you familiar with the constitution of the Building and Construction Trades Department of the American Federation of Labor? A. Yes.

THE COURT: What number is that? I want to [3244] look at that again.

(Exhibit D-37 handed to the Court.)

THE COURT: Page 6, Article IV "Officers, Nominations and Elections":

The officers of the council shall consist of a president, five vice-presidents, secretaries, treasurer, sergeant-at-arms and three trustees, a business agent, when deemed necessary."

It shall be optional to consolidate the secretary and treasurer. No two members of the same union affiliated with an International Union can be selected to hold office in the local Building Trades.

It says, "In addition to the above offices there shall be an Executive Board composed of the president, recording secretary and the five vice-presidents."

That is in Exhiibt 37 which is identified here. So that is all I find in there.

By THE COURT:

Q. Is there anything else in your Executive Board in your local? A. No, that constitutes the full constitution under which the local Building Trades is governed.

[3245] THE COURT: Do you know of any other that is in this particular constitution?

MR. FREEDMAN: Not in that one, sir.

THE COURT: Go ahead. I just wanted to see if my recollection was good from Monday. It was.

By MR. FREEDMAN:

Q. I think you said you are familiar with the constitution of the Building and Construction Trades Department of the American Federation of Labor, did you not? A. Will you repeat that question.

Q. Well, are you familiar with the constitution of the Building and Construction Trades Department of the American Federation of Labor? A. To a certain degree.

Q. And do you know that that constitution also has a "Constitution and By-Laws to Govern Local Councils"? A. Well, we go by the constitution that has been approved legally.

Q. Aren't you governed by the constitution of the Building and Trades Department of the American Federation of Labor? A. We are governed to operate our local council in [3246] accordance with our constitution which has been approved by the national department.

Q. Mr. Blumberg, is your local council a branch of the Building and Construction Trades department of the American Federation of Labor? A. Yes.

Q. And as such you are governed by the constitution of that body? A. We are.

Q. Did you ever read the "Constitution and By-laws to Govern the Local Councils" of that body?

MR. O'BRIEN: Objected to as immaterial.

THE COURT: I will permit the question.

MR. FREEDMAN: Will you answer the question, please.

THE WITNESS: Will you repeat that.

By THE COURT:

Q. Have you ever read the constitution at any time in your life? That is the question. A. Yes.

By MR. FREEDMAN:

Q. Do you remember what it says about the Execu-

tive Board of the local councils? [3247] A. I just don't remember that particular section.

(Report of Proceedings of the Forty-Third Annual Convention of the Building and Construction Trades Department, American Federation of Labor, was marked Exhibit P-206 for identification.)

MR. FREEDMAN: P-206 is a report of the proceedings of the Forty-Third Annual Convention of the Building and Construction Trades Department of the American Federation of Labor, held at Houston, Texas, September, 1950.

By MR. FREEDMAN:

Q. Mr. Blumberg, I ask you to examine P-206 and state whether or not that document contains the constitution of the Building and Construction Trades Department of the American Federation of Labor, and I direct your attention specifically to Page 11 of the booklet and also to Page 20 of the booklet, which has a heading "Constitution and By-Laws to Govern Local Councils."

Will you examine those pages, please.

Now, have you examined it, Mr. Blumberg? A. Yes.

Q. Are you satisfied that that is the constitution and by-laws of the Building and Construction Trades Department of the American Federation of Labor? [3248] A. Yes.

Q. Now, would you examine Section 20 on Page 22, which is within the constitution and by-laws to govern local councils, and read to the Court what Section 20 says.

MR. O'BRIEN: Objected to, sir, as being argumentative and immaterial.

THE COURT: I am curious. I will let it go.

A. "Section 20. The Executive Board shall consist of one delegate from each affiliated trade and the president and secretary who shall officiate as such and shall be entitled to a voice but no vote except in case of tie, when the president shall cast the deciding vote."

By MR. FREEDMAN:

Q. And you didn't have on your council a delegate from each affiliated trade, did you—that is, on your Executive Board?

THE COURT: I think he has answered that.

MR. FREEDMAN: I will withdraw it. I think he has too.

THE COURT: He has answered it: He said that they had a constitution and they abided by this written constitution here and operated under it.

[3249] THE WITNESS: That's right.

THE COURT: I think that is a complete answer to your question.

By MR. FREEDMAN:

Q. Now, you stated Monday, did you not, Mr. Blumberg that the local council entered into certain contracts with various of the associations—master contracts; is that right? A. What was that question? He was walking back there.

(The last question was read.)

THE COURT: Are you talking about the Building Trades Council now?

MR. FREEDMAN: The Building Trades Council, his council.

THE COURT: Is the question clear now?

THE WITNESS: The question is clear. With the, that is, the AGC, a master contract. That is the only master contract with an association.

By MR. FREEDMAN:

Q. The AGC is— A. Associated General Contractors.

Q. Did you have any other master contracts with any individual contractors? [3250] A. The other master contract with them is with the Home Builders Association.

Q. Now, how did you enter into those contracts? Tell

me the mechanics that you used in entering into those contracts. A. Well, the council, through its officers, meet with a committee representing that association for the purpose of working out a collective bargaining agreement. It is then brought back to council and the council acts upon it—ratification or disapproval. When it is approved, it is a contract representative of the council as a whole and all of its affiliates.

Q. And that is the way you entered into those master contracts? A. That's right.

Q. You didn't submit it by referendum vote to the individual unions? A. They don't send out for referendum vote. It is approved by the council through its representatives in attendance at the meetings representing the local unions. If the representative desires to have their organization discuss it, that's their privilege, but they report back to the council with either approval or rejection.

Q. But the point is, you did not obtain a referendum [3251] in order to approve any master contracts that you had?

THE COURT: Is there any legal provision that that has to be done, Mr. Freedman?

MR. FREEDMAN: Yes, sir, I am just about to refer to it.

MR. O'BRIEN: If Your Honor please, I object to Plaintiffs' Exhibit 206 being authority for anything in this case. It is a report back in 1950, and there has been no basis for the fact that that is an authentic copy, that it is a true copy, or that it was governing at the time.

THE COURT: I fail to see the relevancy of this in the context of this case at this point, Mr. Freedman.

MR. FREEDMAN: If the Court please, this witness has testified on direct examination that they entered into certain master contracts on the basis of which they attempted to maintain discipline and uni-

formity and to prevent strikes. I am about to show now, sir, that the master contracts that they entered into were of no validity because they violated the very constitution under which his own council was created.

THE COURT: Get me Exhibit 37 again.

[3252] MR. FREEDMAN: Well, sir, this witness has stated that he is bound by this constitution. He said that this is the constitution of the Building and Construction Trades Department and that he is bound, the local council is a branch of the national and that he is bound by the national constitution, sir, and the constitution that I referred to here, which is set forth in this exhibit, is the national constitution.

THE COURT: All right. I don't think it is of importance in the context of this case. I will permit you to go ahead. Give it the treatment it deserves, however. Let us keep it short.

MR. FREEDMAN: I will, sir.

By MR. FREEDMAN:

Q. Mr. Blumberg, I direct your attention to the last part of the second paragraph of Section 3 on Page 20, and will you read to the Court what that part of the constitution provides. A. The part that you have marked?

Q. Well, I have it within the brackets, but if you think there is anything else pertinent there that might have any bearing on it at all, please read it. Just disregard my markings.

[3253] A. "No local council chartered by the Building and Construction Trades Department shall enter into any agreement with a contractors' or employers' association that provides for compulsory arbitration of disputes between journeymen and their employers or that requires members of affiliated unions to work with non-union men or forbids the sympathetic strike; nor shall a local council of the Building and Construction Trades Department enter into an agreement with an association of employers unless

such agreement has been submitted to and approved by the majority of the membership of its affiliated unions present and voting in a referendum ballot."

Q. Now, Mr. Blumberg, I think you said on Monday that you spoke to Mr. Maloney when you went to Atlantic City with your committee in August of 1952; am I correct? A. That is correct.

Q. Did you tell Mr. Maloney of your plan to strike all of the jobs where engineers were working unless they terminate their strike? A. I don't recall the exact words.

Q. Well, did you tell him the substance of it? [3254] A. Well, we asked for relief if something wasn't done in Philadelphia.

Q. Well, did you tell him the substance of your plan, that is, that you were going to strike the jobs where engineers were employed unless they terminated their strike? A. We told Maloney—

Q. I am asking you whether you told him that. Please answer yes or no and then you can qualify it any way you want—that or substantially that? A. Substantially.

Q. Then you did tell him that substantially. All right, now, did he give his consent to that plan? A. We got no affirmative answer at that time—would be given serious consideration.

[3255-56] Q. Did he ever give his consent to it? A. I don't recall.

Q. Now, you subsequently put that plan into effect and you did strike the jobs where the engineers were employed, did you not? A. No. We did not put the plan into effect.

Q. You did not put the plan into effect? A. No. We held off.

Q. Are you denying that you called your men off jobs where the engineers were employed? A. I don't recall.

Q. Mr. Blumberg, I direct your attention to P-201, which is a telegram from the Walsh-Perini-Groves-Slattery Companies to you as Secretary-Treasurer of the Building

Trades Council. Will you please read that to the Court? A. It is addressed to Norman Blumberg, Secretary-Treasurer of the Building Trades Council, 715 North Broad Street, under date of July 28, 1952.

"Herewith we advise you that unless operations at Fairless Works Plant are resumed immediately and assurances given that no further stoppages will occur contractors will take legal action immediately to compel resumption of operations and for financial damages resulting from work stoppages during these [3257] past two weeks.

"Walsh-Perini-Groves-Slattery Companies."

Q. Now, wasn't that telegram sent to you because you pulled your men off the job there? A. I don't recall that this interpretation that you are putting on this—

Q. Well, what interpretation do you put on that telegram?

MR. O'BRIEN: Objected to.

THE COURT: Overruled.

THE WITNESS: Are you waiting for my answer?

MR. FREEDMAN: Yes. We are.

THE WITNESS: "Herewith we advise you that unless operations at Fairless Works Plant are resumed immediately and assurances given that no further stoppages will occur contractors will take legal action immediately to compel resumption of operations and for financial damages resulting from work stoppages during these past two weeks."

My recollections is that we didn't take our people off. Our people were forced off the job because of the stoppage by the engineers.

By MR. FREEDMAN:

Q. Well, that was the steel plant, wasn't it? A. Yes.

[3258] Q. There was no strike there, was there? A. Not by the building trades.

Q. And you know that there wasn't by the engineers; you know that, don't you? A. You are asking me a question now that I don't know.

Q. Are you stating that you don't know that the engineers were working at the steel plant during this strike?

THE COURT: No. He has stated it to you. You don't have to reinforce it. I got it the first time. Let us go on.

* * * * * * * *

REDIRECT EXAMINATION

By MR. O'BRIEN:

[3263] Q. I show you Defedants' Exhibit No. 37, Mr. Blumberg, which is the constitution and by-laws of the Building Trades Council, Philadelphia Building Trades Council. When were those by-laws and constitution adopted by the local Council? [3264] A. There is no date on here, but to the best of my recollection this constitution was adopted when I went in as secretary in 1935, I think was the date.

Q. And was that constitution and set of by-laws approved by the national department? A. Yes.

* * * * * * * *

[3265] RECROSS-EXAMINATION

By MR. FREEDMAN:

Q. Where is your letter addressed to the International Union—that is, to the national body of the building trades asking for the approval of that set of by-laws? A. In 1935 I wouldn't be—I wouldn't be able to locate—

Q. Who sent the letter; do you know? A. The letter would be sent normally by the secretary.

Q. Were these by-laws in effect when you came into office? A. No. This is a different constitution than when before I was secretary.

Q. I don't understand you. Are you saying that this constitution that you have identified here as Exhibit D-37 —was this constitution in effect when you came into office?

A. There was a constitution but I can't recall whether it was the same wording there. I stated 1935 I came in as secretary when the charter was turned over to the new officers and that new constitution was prepared.

Q. Who wrote to the general office asking for approval of this constitution? Was it you? A. I would normally write as secretary.

Q. Do you remember getting a reply? [3266] A. I couldn't recall at this moment from 1935 to the present date.

MR. FREEDMAN: I would ask the witness, sir, when he leaves the stand to search his records for the letter to the Building Trades Department asking approval of the constitution.

THE COURT: You may ask him but I won't instruct him to do it.

By MR. FREEDMAN:

Q. Would you produce those letters, Mr. Blumberg? A. If they can be located.

Q. All right.

Now, let me ask you this: Is is your position that if this local constitution conflicts with the national that the local constitution prevails?

MR. O'BRIEN: Objected to.

THE COURT: I will sustain the objection.

By MR. FREEDMAN:

Q. Mr. Blumberg, do you operate on the premise that if the local constitution conflicts with the national that the local constitution prevails?

MR. O'BRIEN: Objected to.

THE COURT: I will permit the question. Overruled.

[3267] Read the question back, Mr. Bosta.

(Last question read as follows:

"Q. Mr. Blumberg, do you operate on the premise

that if the local constitution conflicts with the national that the local constitution prevails?")

THE WITNESS: Your Honor, I would have to answer that question that would enlighten yourself, Your Honor, without just specifically answering it as has been put.

By MR. FREEDMAN:

Q. Well, just give us a yes or no answer and you can qualify it in any way you want.

THE COURT: You answer it any way you want to, Mr. Blumberg, and you don't have to give a yes or no answer.

THE WITNESS: Thank you.

When our Council was reorganized in 1935, at that time they held meetings every Friday night. The permission was given to change our procedure in having meetings once a week during the day and only full-time paid representatives to be eligible as delegates, and in accordance with our setup we did receive the approval of the national department, which isn't spelled out in the national constitution; so, yes, we are complying with the principles and understandings as given to us by the national department [3268] in operating the local Building Trades Council the way I just enunciated.

* * * * * * * * *

Q. Mr. Blumberg, in your answer you referred to the situation where the matter was not covered in the International, rather, the national constitution. Now I am directing my question to the situation where there is a provision in the national constitution which conflicts with a provision in the local constitution. Now, do you operate on a premise that if there is such a conflict you follow the local constitution? A. With the understanding had with the national office—

Q. Well, can you answer the question yes or no, first?

THE COURT: I think he has answered it. I won't require him to answer that question yes or no, Mr. Freedman.

MR. FREEDMAN: Well, what is the answer?

(Last answer read as follows:

[3269] "A. With the understanding had with the national office—")

By MR. FREEDMAN:

Q. What understanding was that? A. I did announce that just a moment ago.

Q. Well, did you have a special understanding in connection with Section 20?

MR. O'BRIEN: If Your Honor please, I object to this line of cross-examination.

MR. FREEDMAN: Where is it?

MR. O'BRIEN: Mr. Freedman is presupposing that what is in this Exhibit 206 is the constitution, and that is just not so from a reading of it. That is a proposed constitution. Furthermore, I think that it is immaterial and irrelevant.

THE COURT: Read the question.

(Last question read as follows:

"Q. Well, did you have a special understanding in connection with Section 20?")

THE COURT: I will permit the question.

By MR. FREEDMAN:

Q. You know what Section 20 provides, don't you, Mr. Blumberg? A. Let me read it.

Q. That requires a delegate from each craft or each trade [3270] on the Executive Board, does it not? A. Section 20 provides; but that is also the understanding with the national office. If we had one from every trade in there the Executive Board would be unwieldy. So again that is the understanding had with the national department, and we are not in conflict with the constitution the way we are operating under our local constitution.

Q. Well, now, when did you have that understanding with the national office? A. When the building trades was reorganized in 1935.

Q. Did that come in writing? A. I don't recollect.

Q. You mean it might have been an oral statement to you by someone? A. Could have been an oral statement.

Q. Well, was it oral or was it writing, to the best of your recollection? A. I don't recall.

Q. From whom did this authority or this understanding come, who in the national office? A. Who are the national officers?

Q. No, no. I said, who in the national office had that understanding with you? A. The president and secretary at the time.

[3271] Q. You mean you talked to both of them? A. We talked to the officers.

Q. I am talking about you? A. Yes.

Q. You talked to both of them? A. My recollection could be that I talked to the president.

Q. And who was the president then? A. I would have to check. The person is now deceased.

Q. Don't you remember who it was— A. 19—

Q. —who had that understanding with you? A. I don't recall. I would have to check.

Q. Well, where did that conversation take place? A. In Washington and in Philadelphia.

Q. In Washington and in Philadelphia? A. Yes.

Q. You mean the president came to visit you? A. That is right. There was a meeting in Philadelphia.

Q. For what purpose? A. For the purpose of handing over the charter to the present building trades.

Q. And is that when you had an understanding with him about this particular clause, Section 20? A. Not one particular clause—the general situation of [3272] the operation of the Building Trades Council.

Q. Do you remember discussing Section 20 with him? A. We discussed in general how we would operate and then the formation of our constitution.

Q. But you don't remember discussing Section 20 specifically? A. There wasn't any one specific item discussed.

Q. I am asking you whether you remember discussing Section 20 among others? A. I don't recall, other—

MR. FREEDMAN: That is all.

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[3067] HUNTER P. WHARTON, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. WOLFE:

Q. Mr. Wharton, what is your occupation? [3068] A. I am a hoisting engineer, but my present work is assistant to the general president.

Q. Are you a member of the International Union of Operating Engineers? A. I am, Local Union No. 66.

Q. When did you first become a member of the International Union of Operating Engineers? A. In April of 1926.

Q. Local 66 is located where? A. In Pittsburgh, Pennsylvania.

Q. I believe you said you are a member of that local today? A. I am yes, sir.

Q. Did you ever have any official position with Local 66? A. Yes, sir, I was business agent from 1930 to 1935 and then business manager from 1935 to 1950.

Q. Do you today still have any official position with Local 66? A. Nothing, only my membership in that particular local.

Q. What position, if any, do you have with the International Union of Operating Engineers? A. I am assistant to the general president and a member of the Board of Trustees.

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[3101] Q. Did you deliver the order, Mr. Maloney's order of [3102] August 11, 1952, to the local to terminate the strike? A. Yes, sir; I did.

Q. And to whom did you deliver it? A. I delivered it to Mr. Underwood.

Q. Did you have any conversation with him at the time? A. Yes. I had brief conversation with him when I delivered it to him.

Q. What was said? A. Well, I presented it to him. I said, "There is a letter from the general president," and we briefly discussed the problems here, and he mentioned about the number of contractors that he was getting signed up, and I—that were broken away from the association, and as near as I can recall, my reply to it was something like this:

I says, "Well, Roy, you know what we think of an individual member who breaks away from the union and goes with the contractor when there is trouble." I said, "Those fellows who break away from the association in my mind are in the same category as the individual member who would break away from the union."

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CROSS EXAMINATION

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[3174] By MR. FREEDMAN:

Q. Well, Mr. Wharton, you identified certain letters in Exhibit D-47 as to safety measures, safety precautions, advocated by the International Union, did you not? A. I identified those as a group of letters sent monthly to the various local unions dealing with the subject of safety.

* * * * * * * *

[3178] Q. Now would you be good enough to read the letter of February 1, 1951, from the same exhibit? A. This is the same type of letter, dated February 1, with the same heading, "Please Be Sure To Read This Letter At The Next Meeting Of Your Local Union," addressed, "To All Hoisting and Portable And Mixed Local Unions."

"Greetings:

"What is your local union doing about Accident Prevention? Are you as proud of the progress made in securing a safe place to work and safe working conditions under which you are employed as you are of the progress made in improving your wage scale? Ask yourself these questions.

"Your collective bargaining agreements providing for working conditions and wages are not what they should be unless they contain clauses [3179] providing for safe job practice and for employer-employee cooperation in Accident Prevention.

"Many local unions are now entering negotiations for new agreements or renewal of their present agreements. As you negotiate these agreements, discuss with your employer the development of an Accident Prevention Program to be included in the agreement.

"HE WILL COOPERATE!

"Fraternally yours,

"WILLIAM E. MALONEY

"GENERAL PRESIDENT."

Q. Now, do you have in one of the subsequent letters a series of statistics showing the fatalities and casualties in your industry—in this exhibit? A. I don't know. There may be, Mr. Freedman. I haven't examined the record.

Q. Let me direct your attention to this letter of July 1, 1949, and will you be good enough to give us the contents of that letter. A. This is the same type of letter, under date of July 1, 1949, with the same heading, "Please Be Sure To Read This Letter At The Next Meeting Of Your Local Union," [3180] addressed, "To All Hoisting And Portable And Mixed Local Unions."

"Greetings:

"From available records it has been estimated that in a single year in the construction industry

"2,000 employees were killed
"10,700 employees were permanently injured
"191,000 employees were temporarily disabled.

"Those were all employees of private contractors. Add those employed on operations for the Government and the figures go up.

"Did you see the accident that killed any one of those 2,000? Can you still see it when you close your eyes? Could it have been avoided?

"Was your pal among those 10,700 who were permanently injured? Did he suffer much? Does he suffer now? Is he badly crippled? What happened? Whose fault was it? Again, could the accident have been avoided?

"Were YOU one of the 191,000 who were temporarily disabled? If you were you know how, why, where. Were you badly hurt? What did it cost you in pain? What did it cost you in wages? What did it cost your family? Will YOU avoid the same thing [3181] next time?

"Read those figures again. Then—look out!

"YOU MAY BE NEXT!

"Fraternally yours,

"WILLIAM E. MALONEY,
"GENERAL PRESIDENT."

Q. Did you write any of these letters you have just read, Mr. Wharton? A. Mr. Freedman, I would be unable to answer which one of the whole series there that I drew or helped to draft. I couldn't answer that.

Q. Now, you identified this morning the safety code which came under discussion at that meeting on July 2 with Mr. Maloney. You have said that you were critical of the $500 penalty for a violation of the safety code. Is there anything else in that code that you disapproved of? A. Well, I would have to read it and study it at the present time to answer that question.

Q. Let me ask you, did you read it at that time? A. As I recall, I read it, yes, sir, at that time.

Q. Well, do you remember whether you objected to anything else other than the $500 penalty? [3182] A. My recollection is what I stated before, that the question of the pension code was asked—I was asked about the question of the pension code—

Q. I am just asking about the safety. A. All right. Well, I want to try to answer it so that it can be just as complete and honest as I can make to you. I was asked in that particular meeting referred to about the safety code, and I said I believe that we were for safety and accident prevention on jobs, but the imposition of this $500, imposing of this $500 penalty, was not the way to achieve it. I believe, as I recall, that is the words I said and that is what I said.

* * * * * * * *

[3190] Q. Was the International Union in support of pension plans [3191] generally for its locals? A. I don't know if the International has taken any position on pension plans as a national policy.

Q. Well, now, you read the "International Engineer" regularly, do you not, Mr. Wharton? A. Yes, sir, generally.

Q. Do you remember reading the issue of May, 1952?

A. I have no recollection of what was in the issue of May, 1952.

Q. Well, let me read to you a section from the May issue of 1952 beginning on page 30. It is entitled, "Employees' Pension Plans."

> "General President Maloney is to be congratulated on the success of the General Office Employees' Pension Plan, to which joint contribution is maintained for its support and perpetuation and also on the success of the Beneficiaries' Plan which has not been added thereto.
>
> "The Pension Plan was approved by the past Convention of our International Union and more intimate

details of its Pension and Beneficiaries' structures will be found in the proceedings of the General Executive Board, and the Reports of the General Secretary-Treasurer and the Board of Trustees.

[3192] "General President Maloney feels, and so recommends, that provision should be made in this day and age to provide comfort and security for our membership who are approaching the evening of life, and are coming closer to the day when they will be physically incapable of earning a fair living at their trade."

Do you remember reading that? A. I don't recall reading the specific article. I know about the general, usual pension plan, but I don't recall reading the specific article. I probably did, if it is in the journal.

Q. And don't you agree with it? A. I have no objection to it; no, sir. I am operating under it.

Q. But you aren't very enthusiastic about it? A. I beg your pardon?

Q. But you aren't very enthusiastic about it? A. In my work in the general office I have had nothing to do with pension plans and I have no—made no determined effort to handle or be extremely interested in pension plans. If one comes across my desk I may look at it and other than that I have—it is not part of my work and I have no particular interest in it.

* * * * * * * *

[3193] Q. Mr. Wharton, you were in pretty close touch with Mr. Maloney during the period from May until September, August, September of 1952, were you not? A. I was in the general office, too, at times.

Q. And were you aware of the different pressures which were being presented to Mr. Maloney in connection with the strike—

MR. WOLFE: That is objected to.

By MR. FREEDMAN:

Q. —in May, that started in May of 1952?

[3194] MR. WOLFE: That is objected to.

THE COURT: Overruled.

THE WITNESS: I don't know whether you call them pressures or not. I had some knowledge of some various calls that came into the office regarding the situation here.

By MR. FREEDMAN:

Q. Now, Mr. Wharton, Mr. Wolfe gave you to read this morning a letter from Governor Fine. Do you recall of any other incident where Mr. Maloney was involved in a strike where a governor of another state was also involved?

MR. WOLFE: That is objected to as irrelevant to the issue.

THE COURT: It may be. I will permit the question, however. I will overrule the objection.

THE WITNESS: What is the question again?

THE COURT: Read the question.

(Last question read as follows:

"Q. Now, Mr. Wharton, Mr. Wolfe gave you to read this morning a letter from Governor Fine. Do you recall of any other incident where Mr. Maloney was involved in a strike where a governor of another state was also involved?")

THE COURT: Now, what do you mean, Mr. Freedman, by Mr. Maloney involved, that some local was out on strike and [3195] the governor interposed a request to—

MR. FREEDMAN: Where the governor participated, or, rather, became interested in the strike, and, as a matter of fact, took some active participation in it and Mr. Maloney supported his own local.

THE COURT: I will permit you to ask the question.

Go ahead.

THE WITNESS: No, sir. I do not know of any incident.

By MR. FREEDMAN:

Q. Well, I think you said that you had read the May issue of 1952. Again I am going to refer you to that issue and again ask you whether you recall this statement starting on page 37:

"In an endeavor to correct the abuses below the Mississippi River, and in an attempt to establish a union-shop condition on the remaining construction to the Northeastern Seaboard, the militant and courageous leader and business manager of Local Union No. 513, the late Joseph E. (Buck) Newell, struck the George C. Bolz operation in the summer of 1943. There were fights everywhere; our people were injured and hospitalized; two were killed, and our agents were threatened and [3196] ordered out of town, but still the strike went on.

"The sheriffs in the immediate and bordering counties swore in hundreds of deputies. The Governor dispatched the Missouri State Guard to the scene. The Governor's Mansion was picketed for his anti-union strike activity, as was the Missouri State Federation of Labor Convention, when he was scheduled to make an address. The situation created national attention, with the accompanying unfavorable newspaper publicity.

"After eight weeks, the War Labor Board cited the International Unions affected, namely, the Steamfitters, Teamsters, Laborers and Engineers, for appearance before their tribunal at Washington, D. C.

"All appeared, and after presentation of the issues, the Board decreed that the work stoppage on the 'Big Inch Pipe Line' at the Mississippi River Crossing, being performed by the George C. Bolz Company, was to be suspended forthwith, and that the operation would have to proceed in the interest of National Defense and the promotion of the war effort, or suffer the alternative of a Presidential Order, the violation

of which, in time of war, would be comparable to treason.

"Your committee praises General President Maloney for sustaining the fire of determination that [3197] was kindled by continual sacrifices, and for his militant and constructive approach to a final successful solution, the signing of the National Pipe Line Agreement."

Do you recall reading that, Mr. Wharton? A. Yes.

MR. WOLFE: If Your Honor please, I object now that Mr. Freedman has read it, because what he has read is wholly irrelevant to the issues in this case and has nothing to do with the question he asked.

THE COURT: I sustain the objection.

By MR. FREEDMAN:

Q. Now, Mr. Wharton, I think you stated that you attended the August 5 meeting in Philadelphia of Local 542, did you not? A. Yes, sir.

Q. Do you recall hearing Mr. McDonald speak? A. Yes, sir.

Q. Do you recall hearing Mr. McDonald tell the membership about the pressures that were being brought on against Mr. Maloney? A. I probably heard him mentioned. He talked on the general subject of why they should. I would hesitate, except for my memorandum, which was introduced, which would [3198] probably be the best evidence.

Q. Do you remember what those pressures were as they were outlined by Mr. McDonald? A. I don't specifically recall what his talk before the group was. He may have mentioned any one of a number.

Q. Let me refresh your recollection.

"Vice-President McDonald then took the floor, reviewing the condition of the Local Union when he came to Philadelphia about five years ago, stating that the groups were fighting each other, and that since he has been there, Brother Underwood had

worked for the best interests of the membership; that they had worked together Saturdays, Sundays, and long hours into the night developing the Local Union, which is now the best Local Union in the East."

MR. WOLFE: Excuse me. Would you tell me what you are reading from, Mr. Freedman?

MR. FREEDMAN: I am reading from Mr. Wharton's own memorandum dated August 7.

MR. O'BRIEN: What exhibit?

MR. FREEDMAN: 45.

MR. WOLFE: P-45.

MR. O'BRIEN: Yes.

[3199] By MR. FREEDMAN:

Q. "He further stated that he did not like to see the Local Union return to what had previously existed.

"He reviewed the amount of pressure that was being put upon the General President to get the matter adjusted, stating that pressure had been brought by Secretary of Labor Tobin, Attorney McGrath, the AGC and many AGC contractors."

Do you rememer him saying that? A. I would say if you are quoting from my memorandum, the memorandum was prepared shortly after the meeting, and that is apparently what he said.

* * * * * * * * *

[3204] Q. Well, now, that Chicago meeting is something else. That Chicago meeting was attended by Mr. Halloran and Mr. Underwood and Mr. Carter and his son and Mr. Maloney. That is the meeting you are referring to, is it not? A. That is the only meeting I know of in Chicago.

Q. Well, didn't you know that another meeting took place between Mr. Maloney and Mr. McGrath and Mr. Halloran prior to that time? A. No, sir, I did not.

Q. You didn't know that at all? A. I did not and don't know to this moment that such a meeting occurred.

Q. Mr. Maloney never confided in you about that? A. No, sir. I tell you I did not know of any meeting and I know of no meeting to this date, only what you are saying.

Q. Did you know that Mr. McGrath was interested in this situation on behalf of the employers? [3205] A. No, sir, I did not know anything about Mr. McGrath's activities.

Q. When Mr. McDonald mentioned Mr. McGrath's name at the meeting on August 5, was that the first time that you had known that Mr. McGrath was involved? A. I would assume it was. I didn't know until you read from my memorandum there that he even at that meeting mentioned Mr. McGrath, and if I had it in my memorandum, he apparently did, so I had no knowledge of the parties involved.

Q. Did you know that Mr. McGrath had first approached Mr. Meany before making the appointment with Mr. Maloney? A. I knew nothing of Mr. McGrath's activities.

Q. Did you know that Mr. Meany had called Mr. Maloney in Chicago from Washington? A. I knew nothing of Mr. Meany's activities in connection with this or any of his other work, only in a general nature or what I see or read of him in the paper.

Q. And you didn't know that Mr. Halloran had had a private meeting with Mr. Maloney alone A. I knew of no meetings that Mr. Maloney had had.

Q. You mean with Mr. Halloran? [3206] A. With Mr. Halloran or anyone else in connection with this case here.

Q. Well, now, Mr. Wharton, you remember the A. F. of L. Executive Board Convention in Atlantic City, don't you? A. Yes, sir.

Q. You attended it, did you not? A. I was there for part of the session.

Q. And did you accompany Mr. Maloney to it? A. No, sir. I did not.

Q. Whom did you go with? A. I went by myself.

Q. Before or after Mr. Maloney? A. After Mr. Maloney, as I recall it.

Q. Now, where did you stay when you were in Atlantic City? A. I believe it was the Ambassador Hotel.

Q. That is the same hotel where Mr. Maloney stayed? A. Yes, sir, that is where the meeting was held, which is the customary practice to stay, if possible.

Q. Did you meet Mr. Halloran during the time you were in Atlantic City? A. Yes, sir, the first time I had ever met or talked [3207] to Mr. Halloran, that I know of, was someone in the lobby made me acquainted with Mr. Halloran.

Q. And did you talk to him? A. Talked to him in a casual, general way, yes, sir. Anybody that was in the lobby of that hotel would probably have seen him around there if they had known him. I didn't know him until I was introduced to him in the lobby of the hotel.

Q. All right, now, after you met him didn't you talk about the strike? A. I don't remember definitely the conversations, but I assume the subject of Philadelphia had to come up in my short talks with him. I would have had probably no other reason to have met him or no other reason for him to have discussed anything with me, so I assume that he mentioned Philadelphia.

Q. Didn't he ask you anything about Mr. Maloney? A. I have no recollection of him asking me any questions regarding Mr. Maloney. If he had, I probably would have said, "Mr. Maloney is available around here some place. See him."

Q. Didn't he ask you about whether or not Mr. Maloney had made his mind up? A. No, sir, I have no recollection of any such conversa- [3208] tion with Mr. Halloran.

Q. So that I get it straight, are you saying that it is not a fact or you don't remember? A. I will say to you it is a fact that he did not discuss with me Mr. Maloney's mind or the workings of Mr. Maloney's mind, sir.

Q. Whether Mr. Maloney had made his mind up yet? A. I say it is definitely a fact that he did not discuss that with me.

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[3273] By MR. FREEDMAN:

Q. Mr. Wharton, do you recall my question yesterday regarding the telegram to you from Mr. Maloney? A. I recall something of it. I don't know the exact—

Q. I show you P-167-12 and I ask you whether you received that telegram from Mr. Maloney. A. I don't exactly recall receiving it. Mr. Freedman. It is addressed to me, so I apparently did.

Q. You don't recall receiving it. A. I don't recall receiving it.

Q. Read it. A. Telegram under date of September 25, 1949, addressed [3274] to Hunter P. Wharton, 208 House Building, 4 Smithfield Street, Pittsburgh, Pennsylvania.

> "Following telegram received from John J. McDonald QUOTE Imperative Wharton be instructed to dispatch two agents to Turnpike area immediately STOP Their members crossing our picket lines and operating machines on two projects for Harrison Construction despite strike STOP Successful organization of Turnpike construction seriously threatened STOP Letter follows UNQUOTE Wire me c o E J Lee, Lowry Hotel, St. Paul
>
> "WILLIAM E. MALONEY."

Q. I show you P-167-10, which is a letter dated September 22 1949, from Mr. McDonald to Mr. Maloney, and ask you to state whether—well, read it to the Court first. A. This is a letter on the stationery of the International

Union of Operating Engineers, Locals 542, 542-A, 542-B, 542-C, under date of September 22, 1949, addressed to William E. Maloney, General President, International Union of Operating Engineers, 1003 K Street, N.W., Washington 1, D. C.

"Dear Sir and Brother:

"The feeling in Local Union 542 is running [3275] very high against 66 and its membership working on the turnpike, and in order to prevent any avoidable and unfortunate actions from here, I agreed at their Executive Board Meeting last night to contact you and request that 66 be instructed to assign two agents to the turnpike area where their men are crossing our picket lines and operating machines on both Harrison Sections on strike. Johnson, Drake and Piper with agreements with Local Unions 14 and 138 in New York have sublet their excavation to Harrison with a National Agreement, and are hopeful and threatening to operate non-Union. Some of the members of 66 are on and off this operation each day after a talk by Thomas (Whitey) Franklin, Superintendent, who is supposed to be a member of 66 or out on Withdrawal Card. Franklin in his speech this morning announced to the men that they have 66 and International approval and they could cross the picket line and the worst they would get would be a small fine. Ten 66 men returned after the speech, knowing full well there was no truth nor foundation for the promises, but being gutless and spineless welcomed the excuse to go back to work.

[3276] "Mangold was in our area Tuesday and gave a 'pep' talk to the men which was about as encouraging to the membership of 542 as the statements made by Franklin. Our business agents present at the time reported his statement to the Executive Board last evening, and a wave of indignation prevailed. He (Mangold) stated, 'You are members

of 66 and you are working in 542's territory and if 542 doesn't treat you right, 66 will walk in and finish the turnpike through to Philadelphia.'

"If Warton can't or won't send somebody in here and stay a few days at a time to stop their members from crossing our picket lines, we ought to know it so we won't be lulled to sleep, and can take some direction action.

"This means too much to Local Union 542 and the International Union, to ignore the transgressions of 66 and this membership has a right to know what they may expect in cooperation or otherwise from 66. Local Union 542 has poured thousands of dollars into this campaign on the turnpike and there must be some way to cause 66 to recognize the jurisdictional rights contained in our charter.

[3277] "Local Union 542 appreciates your cooperation in this entire matter.

"With kindest regards, I am

"Fraternally yours,

"John J. McDonald,
"3rd General Vice President."

Q. Was that letter brought to your attention? A. I don't recall having received a copy of the communication, no, sir.

Q. Did Mr. Maloney bring to your attention the contents of this letter? A. I don't know that Mr. Maloney brought to me the contents of the letter, no, sir.

Q. Well, following this letter did Mr. Maloney get in touch with you regarding your men going through the picket lines? A. I would say, in connection with the telegram, I don't recall the date of the telegram, but a telegram came from St. Paul, and I would assume shortly after that telegram is when he called me to St. Paul, at which he directed the action that was taken, because it was at St. Paul where the meeting was held.

Q. Was Mr. Maloney critical of you because of your men going through the picket line? [3278] A. I don't recall Mr. Maloney being critical of my actions to date.

* * * * * * * * *

Q. Now, Mr. Wharton, you stated yesterday that in the arbitr .tion following the imposition of supervision in August of 1952, that you pressed for all of the demands that were outlined in the proposal agreed to before Judge Grim; is that correct? A. I am quite sure we raised each and every point that was given to us, as had been submitted to the contractors.

Q. Now, you know that one of the most important points was the demand for parity with New Jersey was it not? A. That was among the demands, yes, sir.

Q. That was one of the most important, was it not? A. I don't know as any had any more importance than the others.

Q. Did you press for that demand? A. We asked for it, yes, sir.

Q. You submitted a formal memorandum setting forth your position in connection with each of the demands, did you not? [3279] A. I think we submitted a brief, yes, sir.

Q. And is this the brief or memorandum which you submitted in behalf of the Union? It is marked P-179. A. It appears to be a copy of it, yes, sir.

Q. Now, will you turn to the part in that memorandum where you asked for or referred to the demand for wages, for parity with New Jersey. A. In this brief, under that section, I don't see any particular reference to parity with Jersey, sir.

Q. When you say any particular reference, do you see any reference? A. I see no reference to the parity with Jersey in this section dealing with the wages.

Q. In fact, the only request or demand you made for wages was parity with the independent contractors; isn't that correct? No. sir, that isn't—it may have been coin-

cident that the rates asked for were on parity with the independent contractors, but it was the maximum rate allowable under the construction industry stabilization administration or commission.

Q. You mean without express permission? A. Well, it was the maximum permissible under their formula for granting wage increases.

[3280] Q. I am asking you, Mr. Wharton, whether or not you asked for parity in wages with the independents rather than for parity of wages with New Jersey? A. We asked for the maximum, Mr. Freedman, that was available under the formula of the Wage Stabilization Commission. If that was the same rate as the independent contract, it was the maximum that, under the Commission, was allowable at that time.

Q. So you didn't base your demand on what the independents were getting? A. We based it, as I say, on the maximum which was allowable under the wage stabilization formula, which was 40 cents at that time.

Q. Will you turn to page 5 of the memorandum and read to the Court what you did say, please. It is entitled "Section II"; is that right? A. Yes, Roman numeral II.

Q. Please read it. A. "II. THE UNIONS' CONTRACT DEMANDS SHOULD BE APPROVED.

"(1) *Increase in Wage Rates.*

"The wage rates presently paid by the employers' Associations are the rates set forth in Article IV of the contract between the Union and said Associations dated May 1, 1949. The wage [3281] rates for the same jobs paid by the Independents (employers who are not members of any of the three Associations) are in each case 25¢ per hour higher than the wage rates paid by the employer Associations*. The said wage rates paid by the Independents are set forth in Article IV of the contract between the Independents and the Union dated May 1, 1951. That contract expired on April 30, 1952.

"The Union has entered into a new contract with the Independents effective May 1, 1952, providing for wage rates which are 15¢ per hour in excess of the wage rates specified in the said contract of May 1, 1951 with said Independents. The result is that the present contract between the Union and the Independents provides for wage rates which are 40¢ per hour in excess of the wage rates now paid by the three employer Associations. While the application of the Union and the Independents to the Construction Industry Stabilization Commission has not yet been finally acted upon, approval is confidently anticipated, as the said increases are within the scope of the Commission's Wage Policy Resolution of March 20, 1952 (W.S.B. Release No. 209, April 9, 1952). There are approximately 143 employers includ- [3282] ed among the Independents in the local area some of whom are also members of one or another of the three employer Associations. While the exact number of the members of the three employer Associations is not known, it is believed that there are approximately thirty members of the said three Associations. It is obvious that the wage rates to be paid by the employer Associations should be on a par with the wage rates to be paid by the Independents in the same area. It follows that the Arbitrator should approve the increase of 40¢ per hour retroactive to May 1, 1952. The interplant inequities and chaotic conditions which would exist if the Independents paid one rate and the employer Associations a different rate for the same job in the same area would be intolerable."

Q. That is the end of it, isn't it? A. Yes, sir.

* * * * * * *

[3303] Q. Now, in this contract marked P-69, Mr. Wharton, you inserted a clause or you agreed to a clause which would give the contractors the benefit of any clause or of any provision that you—well, let me read it to you, I am reading from page 20 of the blue book.

MR. WOLFE: That is P-69?

MR. FREEDMAN: That is right.

"It is understood that if the unions enter into [3304] any agreement with any contractor engaged in heavy, highway and railroad construction within the area designated herein upon more favorable terms to such other contractor than are embodied in this agreement, this agreement shall be amended so as to afford the party to this contract the same terms."

By MR. FREEDMAN:

Q. Now, that was new, wasn't it? A. I am not positive whether it is new in this contract, but it is a standard form of provision, I would say, in 99 per cent of the contracts on construction that is written.

Q. Didn't you insist on a provision which would give the union the same right? A. No. This is the standard form providing for that, because we deal generally with an association, and that is the agreement that becomes the area pattern once that agreement has been made, and if we would go out and violate the terms of that agreement by giving to someone something other than this agreement provided for, why, the contractors or the association signing this would be entitled to it.

* * * * * * * *

[3305] Q. Are you familiar with a provision that was in the contract for the independent contractors at the time you took over under supervision? [3306] A. I have had my memory refreshed by hearing that clause spoke of here, yes, sir.

Q. Let me refresh your recollection a little bit more. That provision provided that both the contractor or the the union could take advantage of any different provisions in any subsequent contract that might be worked out. A. Whenever we developed—

Q. Do you remember that, first of all? A. I remember that clause. It said that if they got something better

off of the other contractors group, that that would prevail in the existing one with the independent.

Q. But this provision that you have got here only gives the contractors that option? A. But, Mr. Freedman, if I may qualify my answer to this question, we were not jockeying one contractors group against another. We were dealing with the traditional bargaining group in the area, and therefore there was no question of jockeying one against the other to try to outsmart one or the other.

Q. And that is why you gave these contractors the right to get the benefit of any other provision in their favor but you didn't give the union the same privilege?

MR. WOLFE: That is objected to as argumentative and irrelevant.

[3307] THE COURT: Sustained.

* * * * * * *

By MR. FREEDMAN:

Q You made Mr. Lavery your assistant supervisor, didn't you? [3308] A. That is the title.

Q. It is a very responsible position, is it not? A. I would say I certainly figure it to be responsible, certainly.

Q. He just about runs the union, doesn't he? A. He is directly in charge, operates it from here, which is the customary practice in these kinds of situation.

* * * * * * *

[3309] Q. Did you know that Mr. Lavery was indicted for labor racketeering recently?

MR. WOLFE: That is objected to, if Your Honor please, as wholly irrelevant.

THE COURT: Well, if this were before a jury, it might well be grounds for the withdrawal of a juror.

I will sustain the objection.

[3310] By MR. FREEDMAN:

Q. Mr. Wharton, do you consider it good practice to keep in a position of trust and responsibility a man who has been indicted for labor racketeering?

MR. WOLFE: That is objected to for the same reason and for the additional reason that it is purely argumentative.

THE COURT: Well, of course, from reading of newspapers, Mr. Freedman, I can't help but read matters that come up. That has happened since this case went on trial.

MR. FREEDMAN: That is right.

THE COURT: It happened weeks after the case went on trial.

MR. FREEDMAN: That is what I intended to develop, sir.

THE COURT: Well, suppose you just stop developing it, because it is highly improper.

MR. FREEDMAN: May I make an offer? I would be glad to do it at side bar or any place else.

MR. WOLFE: I object to any offer on the subject. It is so clearly irrelevant.

THE COURT: No. I have ruled on that point right now. I am not going to hear any more about it.

[3311] I again say that this is not a popularity contest. There are basic legal issues which will be met in this case.

By MR. FREEDMAN:

Q. Mr. Wharton, is Mr. Lavery still your assistant supervisor? A. Yes, sir.

Q. Mr. Wharton, you testified that at the meeting in Miami—I think you said that you attended that meeting in Miami, the Executive Board of the International, did you not? A. Referring to the one that was read yesterday, sir?

Q. Yes. A. Yes. I was there.

Q. And I think you said that one member from Local 542 presented himself at that meeting. Do you recall reading that? A. I read that from the record. I didn't say it.

I was reading from—what was said in that respect was read from the minutes of that board meeting.

Q. Well, you said that the record was correct, didn't you? A. I assumed that it was correct; yes, sir.

Q. Do you remember who that one member from Local 542 was? A. Yes. I do.

[3312] Q. Who was it? A. Frank Lentino was one fellow that was there.

Q. Do you know Mr. Lentino? A. Only since I had come into Philadelphia as supervisor of the local union.

Q. And since you became supervisor he has been promoted to master mechanic; is that correct, Mr. Wharton? A. No, sir. I wouldn't say that.

Q. You wouldn't say it? A. No.

Q. You mean he is not a master mechanic now? A. I don't know what the individual is working at, Mr. Freedman. I don't know whether he was a master mechanic before I came in and I don't know whether he is a master mechanic at the moment, I could not answer the question.

Q. Do you know what Mr. Lentino's record is? A. I don't know anything about Mr. Lentino personally.

Q. Did you know that he has been convicted of armed robbery?

MR. WOLFE: That is objected to, if Your Honor please. It is wholly immaterial to the issues in this case.

THE COURT: I am going to overrule that one. You may answer, if you know.

[3313] THE WITNESS: I have heard that he had had some trouble. Since I have been in Philadelphia here I had heard that.

By MR. FREEDMAN:

Q. Well, didn't you know— A. Heard that he was pardoned from something, some trouble he had had some place.

Q. Well, didn't you know that he served time for armed robbery? A. I don't know the details at all, sir; no, sir.

(Letter from Captain James H. Farley of the Department of Police, Atlantic City, New Jersey, dated March 19, 1948, was marked Exhibit P-208 for identification.)

MR. FREEDMAN: P-208 is a letter from Captain James H. Farley of the Department of Police, Atlantic City, New Jersey, dated March 19, 1948.

THE COURT: To whom?

MR. FREEDMAN: The addressee doesn't appear. It just says, "Dear Sir."

By MR. FREEDMAN:

Q. Mr. Wharton, I show you—

THE COURT: Hand that letter up to me.

By MR. FREEDMAN:

Q. Mr. Wharton, I show you P-208 and ask you to read it [3314] and state whether or not you were aware of the information that is contained in that letter. Were you?

MR. WOLFE: That is objected to, if Your Honor please. Just a moment.

THE COURT: He may read it to himself.

Now, read the question back, Mr. Bosta.

(Last question read as follows:

"Q. Mr. Wharton, I show you P-208 and ask you to read it and state whether or not you were aware of the information that is contained in that letter, Were you?")

THE WITNESS: I have read it. I knew nothing of the details as set forth in here. As I said to you before, I knew he had some trouble some place, but I knew nothing of the details of this; no, sir.

* * * * * * * *

[3322] By THE COURT:

Q. Mr. Wharton, yesterday, at Page 3103 of the transcript, you mentioned certain names as men who accom-

panied you at the time you delivered the order of August 19, 1952, invoking supervision. How big a man are you? A. Six three and a half with my shoes on.

Q. How much do you weigh? A. About 235.

Q. You mentioned Mr. Duffy. How big a man is he? A. Oh, Mr. Duffy, I would say probably five five or six, something like that. He is a short and stubby individual.

Q. How much did he weigh? A. Oh, I imagine he would weigh around 190, 200.

Q. How about Jack Smith? A. Jack Smith is a rather normal sort of fellow, slender, probably five eight. I doubt if he would go more than 150 or 160, maybe a little more.

Q. How about Jack Carter? A. Jack Carter is probably about my height, I guess around six feet, maybe six one, a rather slender individual, as I recall him. I haven't seen him for [3323] some time, but probably 190.

Q. How about Pete Weber? A. Pete Weber is about my size.

Q. How about Joe Gatti? A. Joe Gatti is a very short fellow more on the build of Duffy, a short and stubby individual.

Q. Where was Duffy from? A. Duffy was from Jersey, I think, sir.

Q. Where was Jack Smith from? A. He was from New Jersey.

Q. How about Jack Carter? A. I am not sure whether he lived across the line, across the state line. He did live in Pennsylvania a while, and he may have lived over there. I don't know where he was living at the time, sir.

Q. How about Pete Weber? A. Pete Weber's home is in New Jersey.

Q. Joe Gatti? A. I don't have any knowledge of Joe's residence.

Q. Why did you take those particular men with you on the day you invoked supervision? A. They were all

around town here, sir, at the time I went up to take over the local under supervision.

[3324] Q. What do you mean, they were all around town? A. They were in town here. From Local 825 they have a large membership working in this area, as 542 has working in Delaware. They know the situation here and they were in town. As I recall, I was staying here at the Ben Franklin Hotel in Philadelphia when I went up to deliver that, and they were in town at the time and I asked them to go along. I don't know why exactly, other than what I have said, why they were here, but I asked them to go along because of the information that I had had of the situation existing around the office of Local Union 542.

Q. Well, what information did you have, whether it is true or false? A. I had information, sir, that they had a crew of men stationed in the office of 542, at 121 North Broad Street, where the office was located then and presently is, with baseball bats, guns, and other instruments of that kind; and these men were in town here, and I had an opportunity to have someone accompany me, and I asked them to go along up with me, if there was any necessity or any trouble developed, that I certainly wasn't sticking my head into a hornet's nest when someone to accompany me [3 25] was available.

Q. Well, isn't there always a policeman on the corner of Broad and Arch Streets? A. I don't know, sir. I wasn't familiar with Philadelphia at that time, sir.

* * * * * * *

[3326] WILLIAM H. THOMAS, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. WOLFE:

Q. Mr. Thomas, what is your profession. [3327] A. Practice of law.

Q. And where are your offices located? A. Cleveland, Ohio.

Q. Are you associated with a law firm in that city? A. The firm of Hartshorn, Thomas, Edelman, and Fludine.

Q. You are a member of the bar of what jurisdiction? A. A member of the bar of Ohio and of the District of Columbia.

Q. I believe your appearance has been entered in this case as one of the counsel for the defendants; is that correct? A. It has.

Q. Are you a member of the International Union of Operating Engineers? A. I am, Local 18 of Ohio.

Q. When did you become a member of the International Union of Operating Engineers? A. I believe it was 1928 or 1929.

Q. And you have continuously been a member of Local 18 since that date, have you? A. That's right, and its predecessor local, I think it was 589, which was later merged into Local 18.

Q. You were also general counsel for the International Union of Operating Engineers, were you not? A. I was general counsel from 1938 until May 1 of 1956.

* * * * * * * * *

[3367] By MR. WOLFE:

Q. Mr. Thomas, you were present in court when Mr. Underwood testified earlier in the trial with respect to the trial before the Executive Board of certain members of Local 542? A. I was.

Q. Do you recall his testimony on that subject? A. I do.

Q. And in connection with that, he testified that vice-president McDonald had authorized the trial of these members before the Executive Board instead of following the procedure for trial set forth in the constitution. Is there any power or authority in the constitution vested in the vice-president to direct a different method for the trial of members of the local than the method set forth in the International Constitution? A. I don't believe there is any power any place in the constitution which takes away

the right of a member to be tried by his local union, and the attempt to try members in an Executive Board is illegal and has been held so time and time again. There is no power by a vice-president to give such an order.

* * * * * * * *

[3370] JAMES L. McDEVITT, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. WOLFE:

* * * * * * * *

Q. What is your occupation? A. I am now serving as National Director of the Committee on Political Education of the American Federation of Labor and the Congress of Industrial Organizations.

Q. Are you a member of any local union? A. I hold membership in Local No. 8 of the Operative Plasterers and Cement Masons International Union.

Q. Is that a Philadelphia local? A. Yes; it is.

Q. When did you become a member of that organization? A. I had been identified with it since 1916 when I started my apprenticeship.

Q. Have you had any connection with the Building and Construction Trades Council of Philadelphia? [3371] A. Yes; I do.

Q. When did you first have any connection with that organization? A. When I was first elected business agent in the year of 1925.

Q. And what positions have you held with the Building and Construction Trades Council of Philadelphia during the intervening years? A. I served as its president and now in the position of business manager.

Q. You are still business manager of the Building and Construction Trades Council of Philadelphia? A. That is correct.

* * * * * * * *

[3381] Q. I show you a telegram dated May 7, 1952, which has been marked in evidence in this case as

Plaintiffs' Exhibit No. 173, and ask you whether you are familiar with it.

Will you read that, so that the record will indicate the subject of the next few questions. Will you read it out loud, please. A. Yes, I will.

May 7, 1951, addressed to Roy J. Underwood, 121 North Broad Street, Philadelphia.

"Am informed Philadelphia Building Trades Council has ordered you to return your men to work on jobs where you have no contract. Section 20 of the Constitution and By-Laws to Govern Local Councils of the Building and Construction Trades Department provides that the Executive Board shall consist of one delegate from each affiliated trade and the president and secretary who shall officiate at such and shall be entitled to a vote but no vote except in case of a tie when the president shall cast the deciding vote. Local 542 IUOE has no member on the Executive Council in Philadelphia in spite of continuous protests of Local No. 542. The [3382] action of the council therefore has no effect since the council has not complied with the law governing it."

Signed Arthur D. Hill for William E. Maloney.

Q. Is there any conflict between the constitution of the Building and Construction Trades Council in Philadelphia, which has been offered in evidence in this case, and the constitution of the Building Trades Department? A. If it is boiled down to words, it would be in conflict with the provision contained in the Building Trades Department constitution. The provision in the local Building Trades Council constitution provides for a limited number of members. It does not provide for a representative of every union or every craft affiliated. That is well known to the Building Trades Department. We took that matter up with them.

* * * * * * * * *

[3383] Q. Mr. McDevitt, did you have anything to do with Mr. Maloney's decision to take a part in attempting

to straighten out the strike situation in Philadelphia? A. I believe that I would be primarily responsible for getting Mr. Maloney into this picture.

Q. And will you state why and what you did in that connection. [3384] A. Well, after all of the efforts we made to try to reconcile the differences and to get some peace and order out of chaos, we made several appeals to President Maloney, asking him to take some action to try to relieve us of this very serious problem. We did that on several occasions. We explained to the president the extent to which we went in our efforts to solve it and received his assurance that he would look into it thoroughly.

MR. FREEDMAN: If the Court please, I object at this point unless the witness says that he personally did these things.

THE COURT: I think he is taking a personal responsibility, aren't you, Mr. McDevitt?

THE WITNESS: Fully, judge.

MR. FREEDMAN: But what I am objecting to is that unless he personally attended to these things and knows of his own personal knowledge and not what somebody else told him—

THE COURT: I haven't understood him to say other than he personally did. Perhaps the use of the word "we" connotes that somebody else worked with him, but I have assumed that everything he says he did personally.

[3385] By THE COURT:

Q. Is that right? A. There was one occasion, Judge, where the other officers of the council met with President Maloney along with myself. The latter occasion I met with him and there were just the two of us had the discussion that I referred to before.

Q. All right, now, can you pinpoint those, Mr. McDevitt? A. Yes, I can. There were several earlier discussions—I can't recall the date; our records would show

that—where the officers of the Philadelphia Building and Construction Trades Council met with President Maloney in an effort to bring about an adjustment of this problem.

Q. In Washington? A. It was in Washington, yes.

MR. FREEDMAN: May I ask whether he was there, sir?

THE WITNESS: I was not, on that occasion.

MR. FREEDMAN: I object to any further testimony on that line, sir.

THE COURT: Well, I will permit the fact that he, from his position, knew that they met with them. [3386] What happened there he can't tell, of course, but what he did himself he can tell. I will permit to stand the fact that there was such a meeting, however.

Go ahead, Mr. Wolfe.

By MR. WOLFE:

Q. Will you tell us what contacts you had with Mr. Maloney on the subject.

MR. FREEDMAN: May I ask whether there was a date for that meeting that Mr. McDevitt testified to.

THE WITNESS: I don't have the dates before me, but it was immediately prior to the action that taken by the International Union in this case, and I met with Mr. Maloney and went over this matter in detail with him and pointed out that we had to have some relief, that our contracts were in jeopardy, our people were walking the street without justification, and no one was doing anything to give us the relief that we were entitled to. I was assured by President Maloney that the matter would be fully investigated by him and that he would take appropriate action if it was warranted. That was the conversation that was had with President Maloney.

MR. WOLFE: Cross-examine.

[3387] CROSS-EXAMINE

By MR. FREEDMAN:

Q. Where did this conversation take place, Mr. McDevitt? A. In Philadelphia, if you are referring to the one that I had with Mr. Maloney.

Q. That is right, sir. A. Philadelphia.

Q. Can you place the date of that? A. No. I answered that previously by saying that it was about a week or two prior to the action taken, as I recall it. I may not be accurate.

Q. When you say action taken, what action do you refer to? A. The action taken by the International Union with respect to Local 542.

Q. You mean invoking supervision? A. That's right.

Q. So it would be about a week before he actually invoked supervision? A. I say approximately. I can't be too certain of that. I don't have the date before me.

Q. And when before that time did you say or can you estimate the other meeting between the other officers and Mr. Maloney took place? [3388] A. No, I could not.

Q. Whether it was a month or a day or six weeks? A. No, it would only be a guess on my part. I was not in attendance at the conference referred to.

Q. Now, had you carried on any discussions with Mr. Halloran at any time during that period? A. When you are referring to the period, you are going back now to 1951 when this unfortunate occurrence took place?

Q. Well, I am talking now primarily about 1952. Let us say from May Until September of 1952. A. There were a couple of telephone conversations that Mr. Halloran had with me complaining of our inability to man our jobs.

Q. Just telephone conversations? A. That's correct.

Q. What about any official meeting, let us say any meeting between your group and Mr. Halloran and his group. A. I have no knowledge of any such meeting.

Q. Do you know of any meeting which any of the men of your group had with Mr. Halloran and his group

during 1951 or 1952? [3389] A. There were no official meetings, to my knowledge.

Q. Well, any kind of meetings. A. Official or unofficial, I have no knowledge of.

Q. If it was attended, let us say, by Mr. Blumberg and Mr. Lavin—they were the officials of your organization, were they not, of your council? A. That is correct.

* * * * * * * *

[3390] Q. Mr. McDevitt, the Pennsylvania Federation of Labor puts out a magazine, does it not, called "The Federationist"? A. A monthly publication, that is correct.

Q. And there is extensive advertising in that magazine, is there not? A. Are you talking about the paper?

Q. The magazine. [3391] A. Or the magazine?

Q. The magazine. A. The magazine was printed by the Federation for years but has been discontinued for the past I think three or four years.

Q. Would you say it was discontinued since 1953? A. Since 1953, yes. That would be my guess.

Q. But it was in circulation in 1951 and 1952? A. Oh, it was in circulation since back in 1918, that's right.

Q. And in that magazine there is extensive advertising, is there not? A. I don't know what you mean by extensive. There was advertising covered in the publication.

Q. Mostly from the employers with whom you were doing business; is that correct? A. May I ask you if you want to correct that question, with whom I was doing business—

Q. I mean the people with whom your unions did business. A. Well, of course, they are business people. They are the only people we were getting advertising from.

Q. That is right; that is what I am trying to find out. A. Yes, that's a natural thing.

[3392] Q. Are you able to estimate how much your association or organization received by way of advertising from these people?

MR. WOLFE: That is objected to, if Your Honor please.

Q. Each month.

MR. WOLFE: Objected to as irrelevant and immaterial.

THE COURT: I will overrule the objection. If he knows, he may answer.

What was your answer, Mr. McDevitt?

THE WITNESS: Judge, that would vary in amounts. If counsel is asking how much we received, gross moneys we received each month, as a result of this advertising space being sold, that is one thing.

MR. FREEDMAN: That is what I am asking.

By THE COURT:

Q. Were you the business manager? A. No, I wasn't.

Q. You can answer that you know or you don't know. A. I would have a rough idea, because there was an agency employed to do that work.

By MR. FREEDMAN:

Q. What is your best estimate of the gross receipts |3393| from advertising? A. Gross receipts?

Q. Yes. A. It varied. It depended on the year, the condition—there were so many factors in it that it is pretty hard to pinpoint it.

Q. Well, did it average between ninety and a hundred thousand dollars a month? A. The Federation derived between $25,000 and $30,000, roughly, a year out of that advertising. Does that answer your question?

Q. Are you saying those are the gross receipts? A. No, no, I am not. I repeat again, it would be awfully difficult for me to give you gross receipts.

Q. Oh, you say it would be difficult? A. Very difficult, because of the variations.

Q. Now, the agency that you are talking about, they deducted a commission, did they? A. How is this?

Q. I say, the agency you are talking about deducted a commission? A. Yes, that's the customary practice with all advertising agencies.

By THE COURT:

[3394] Q. Oh, wait a minute. Let me get something straight. An agency went out and solicited these advertisements. A. Yes, they did.

Q. Your union or you didn't make any solicitation? A. I never solicited one piece of advertising for anyone or under any circumstances.

THE COURT: All right, I just wanted to get that straight.

By MR. FREEDMAN:

Q. But it was for your magazine and it was with the people that your unions were doing business with? A. Not necessarily, not necessarily.

Q. Didn't your organization, council, get the proceeds after the deduction of commissions? A. The Federation of Labor did receive some profit from that venture that was used to defray the operating costs of the Federation itself. May I add that we have records of that, printed records, that were distributed every year.

Q. Have you read from time to time the financial reports of the Federation? A. I have read them since I first assumed office in 1938.

Q. Would you say that the financial reports of your [3395] Federation show that the manufacturers, some of whom are members of the Pennsylvania Manufacturers Association, along with business firms, have contributed to advertising in your Annual Year Book to the amount of approximately $737,000 in the 9-year period from 1952 backward? A. You ask a rather perplexing question, counsel. You got me going backward now. It is hard enough to go forward.

Q. Well, I would like to go backward this time. I would like to trace it from 1952 back nine years. A. From the year 1952?

Q. That is right. A. In other words, that would be back to 1943?

Q. 1943 to 1952. A. Well, if you have the records there, you let me have a look and I will refresh my memory. I can't remember that far back.

Q. Would you say that that statement was wrong? A. What statement was wrong?

Q. The statement that I just made, the question that I just— A. I couldn't tell you. I don't have any books before me, and my memory wouldn't carry those items around all that time.

[3396] Q. You wouldn't say that it was wrong, would you? A. I won't say that it is right. I have no way of knowing at the moment.

Q. Would you like to see the statement that I am reading from? A. I have no objection to it. I don't know what purpose it serves.

(Letter dated April 14, 1952, from David Williams to Mr. James L. McDevitt, was marked Exhibit P-209 for identification.)

MR. FREEDMAN: P-209 is a photostatic copy of a letter dated April 14, 1952, to Mr. James L. McDevitt, President, Pennsylvania Federation of Labor, from David Williams, Director.

By MR. FREEDMAN:

Q. Mr. McDevitt, I show you P-209 and I ask you to read it to the Court.

THE COURT: Let me see it. I am just trying to figure out where the relevancy lies.

(Letter handed to the Court.)

THE COURT: Do you object to the reading of the letter?

MR. WOLFE: We object to the reading of [3397] the letter.

THE COURT: I will sustain the objection to the reading of the letter.

You may question him about it. We are not getting into outside arguments in this case. We have enough of them right here. If you want to take any facts stated in that letter and ask this witness whether they are true, you may do so, but I am not going to have that letter read into the record. We have an issue here between 542 and its International. We are not going outside of that dispute. Any questions you want to ask from that letter you may ask. The letter as such is not going to be read.

MR. FREEDMAN: I am going to try to take out just those provisions which relate to the questions I have been propounding to the witness, with Your Honor's permission.

THE COURT: Very well.

By THE COURT:

Q. Do you know the letter? A. I didn't read it.

MR. FREEDMAN: Would you like to read this letter, Mr. McDevitt?

[3398] THE COURT: I think the first item of business is that you read that all the way through, Mr. McDevitt.

THE WITNESS: Thank you.

(The witness read Exhibit P-209.)

By MR. FREEDMAN:

Q. Have you read the letter? A. I am familiar with that letter. So is everybody else in the trade union movement in Pennsylvania.

Q. Do you agree with this statement in the letter, Mr. McDevitt:

"The financial reports of your Federation show that manufacturers, some of whom are members of the Pennsylvania Manufacturers' Association, along with business firms, have contributed to advertising in your Annual Year Book to the amount of approximately $737,000.00, in the past nine years. The re-

ports also show that certain agencies have received the fat sum of approximately $438,000.00, as commissions from these collections, during the same period."

Is that a correct statement, Mr. McDevitt? A. I have no way of knowing, without the records before [3399] me, that that's correct, and let me say now that the man that wrote that letter was the secretary-treasurer of the Federation from 1938 to 1943, and he handled the checks for that advertising.

Q. I was just going to ask you to identify Mr. David Williams, marked director here. Was he previously an official in the Federation? A. He was secretary-treasurer from 1938 to 1943.

Q. So that the 9-year period that he talks about would begin from the time he left office to the date of this letter? A. I don't know. It may be. I don't have those records before me, but if it is necessary, we will surely get them for you.

Q. Well, you read this letter before, did you not, Mr. McDevitt? A. Oh, everybody read it.

Q. And you had occasion to check these figures with the— A. No, we didn't bother. He is an irresponsible person, We didn't take it seriously.

Q. You mean he was an irresponsible individual? A. Yes.

[3400] Q. Well, now, do you deny that those figures are correct? A. I surely do. I don't know, as I have explained before, and I don't think it is fair that you ask me to go back to 1943 and certify to the correctness of those figures that he uses.

Q. I am only asking you to give us your best recollection. If you would like to go back to the figures of your association and check them and give us the exact figures, I will be very happy to have you do so.

MR. WOLFE: If Your Honor please, I object to the question.

THE COURT: I will sustain the objection.

[3401] Q. Now, do you agree with this statement in the letter, Mr. McDevitt:

"The report for 1951 shows your Federation collected a total of $95,657.35 for Year Book advertising last year, which was several thousand dollars more than your members paid in dues."

MR. WOLFE: I object, if Your Honor please.

By MR. FREEDMAN:

Q. Is that a correct statement?

MR. WOLFE: The witness has already—

THE WITNESS: I couldn't say.

MR. WOLFE: —said that he has no present recollection, that he would have to refer to the records, and I object for that reason, and also on the ground that it is wholly irrelevant to the issues in the case.

THE COURT: Read the question back.

(Last question read as follows:

"Q. Now, do you agree with this statement in the letter, Mr. McDevitt:

'The report for 1951 shows your Federation collected a total of $95,657.35 for Year Book advertising last year, which was several thousand dollars more than your members paid in dues.'")

THE COURT: If the witness has a present [3402] recollection of either the truth or falsity of the statement therein contained, he may say so; if he has no knowledge, he may say so.

THE WITNESS: I couldn't certify to its correctness. I do not have the records before me.

By MR. FREEDMAN:

Q. Now, Mr. McDevitt, do you agree with this statement in the letter:

"After printing the Year Book, the small percentage of the advertising collections left for the Federation were channeled into your general fund,

from which you received your salary and expenses, as President of the Federation."

Is that a correct statement? A. It is partly correct.

Q. And in what respect is it incorrect? A. To the extent that we used some of it—some of it to pay for expenses in the operation of the federation.

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[3450] DEPOSITION OF HARRY R. HALLORAN

Q. Now, I assume you recall the work stoppage that occurred in May of 1951 in the Philadelphia area. Do you recall that? A. Yes, I do.

MR. FREEDMAN: If the Court please, may we entitle this "Extension of Mr. Halloran's testimony," so that it can be coupled with the testimony already presented, and therefore we need not present any further identifying statement at his point?

THE COURT: Well, I will recognize who Mr. Halloran is, but this is rebuttal testimony.

MR. O'BRIEN: Yes, sir. I object to it being an extension of his testimony.

THE COURT: It is rebuttal testimony, and I will recognize who Mr. Halloran is.

Q. That was the occasion when your Association applied for an injunction. Do you recall that? A. Yes, I do.

Q. Do you recall communicating at that time with the Building Trades Council—Building Construction Trades council? A. In 1951?

[3451] Q. Yes. A. I am not sure that we communicated in 1951. I know we did in 1952, but I would not be sure whether or not we communicated in 1951.

Q. Well, in 1951 you recall that they sent telegrams out to the Operating Engineers directing them to return to work?

A telegram came out from the Building Trades Council. Do you remember that? A. I say I don't recall whether one came out in 1951 or not.

Q. I am trying to refresh your recollection. A. Yes. Well—

Q. Does that refresh your recollection? A. No. I mean I don't know. I won't say that there wasn't one. I am not sure of that.

Q. And you don't remember conferring with anyone in the Building Trades Council at that time? A. We had several meetings with the Building Trades Council, but I think that they were in 1952, but I am not sure whether there were any in 1951 or not. It may have been one or more was in 1951.

Q. Do you have any particular individuals in the Building [3452] Trades Council that you communicate with in connection with these matters? A. As a matter of fact, direct communication with the Building Trades Council is usually initiated by the Building Contractors Association, and which were part of our over-all group, but which do have more direct connection with Building Trades Council than our own Association does.

Q. Well, do you personally know any of the men in charge of the Building Trades Council? A. I do.

Q. Which ones? A. A number of them: Blumberg, Jim O'Locklin; Lavin. They are all I can recall right now.

Q. Are you well acquainted with each of these individuals you have mentioned? A. With those I mentioned.

Q. And have you had much contact with them? A. Yes.

Q. Prior to and since May of 1951? A. Yes.

Q. Has your recollection been refreshed at all concerning anything that might have happened in May of 1951 or prior to May of 1951 regarding that strike that took place, or the negotiations? [3453] A. I am inclined to think we may have had a meeting in 1951, but I am not too sure of it.

Q. Well, who was involved, do you recall? A. I know that we sat down with the Building Trades Council, but—and there were quite a few other people there, including

those four that I mentioned, and there may have been one meeting in 1951. I am quite sure there was one or more in 1952.

Q. I see. Well, can you tell us what occurred as best you can recollect, what occurred at the meeting? A. Well, at the meeting or meetings that I attended there was discussion on the floor that the Operating Engineers were on strike, and the first—I know in 1951, if there was one, our conversations would have had to have been on the fact of our contract had another year to continue, but I don't remember any of the details of that.

Q. You don't remember whether you took up the question of the contract with them? A. I think we did.

Q. And was that at your instance? A. As we are going along now I am fairly sure that we had a meeting in 1951, and that the meeting with the Building Trades Council was initiated by the Building [3454] Contractors which were part of our group, and they arranged the meeting.

Q. You mean—when you say Building Contractors, you mean the General Building Contractors Association? A. Yes.

Q. And they are a part of the group of which you are chairman? A. That's right.

Q. Now, do you recall any of the details, now that your memory has been refreshed—do you recall any of the other details of the meeting, what your people wanted from the Building Trades Council? A. In the 1951 period our whole discussion would have been on the fact that we had a contract which was—had another year to run, and our position was throughout that period that we wanted to continue working, but we wanted to have the Operating Engineers to work with us.

Q. Where was that meeting held? A. We had a meeting at the, I think—we had two meetings. Whether one of them was in 1951 or both of them in 1952—up at the Building Trades Council.

Q. At their office? A. Yes.

[3455] Q. Now, at the 1951 meeting, do you recall whether anyone from the Operating Engineers was there when you took up this question of the contract with them? A. I don't think there was. I am pretty sure there wasn't.

Q. Was not? A. Yes.

Q. Now, as a result of that first meeting in 1951, the Building Trades Council sent out a telegram, did they not, to the Operating Engineers? A. Frankly, I don't remember whether there was a telegram sent out in 1951 or not.

Q. Let me try to refresh your recollection, Mr. Halloran. Don't you recall that the Building Trades Council sent out a telegram to the Operating Engineers directing them not to strike in 1951? A. No, I do not remember any such telegram in 1951.

Q. Now, you say you had a number of subsequent meetings. When was the next meeting following that meeting in—shortly before or during May of 1951, either preceding or during that work stoppage in May of 1951? A. I am not 100 per cent sure that we had a meeting in 1951. I think we did. But I know we had one or more meetings in 1952.

Q. All right. Will you tell us— [3456] A. If we had one meeting in 1951, I would be pretty sure that was all we had.

Q. Now, will you tell us when you held your next meeting and who attended it? A. We held a meeting in 1952, and my guess is that it was in late June or early July.

Q. 1952? A. Yes.

Q. You didn't meet with the Building Trades Council before the end of the period that you contended was the end of the contract? A. No, we didn't have any meetings.

Q. I see. So that by that time in June or July you say the strike was already on? A. Yes.

Q. The strike had started, I believe, in May 1, 1952? A. May 1, 1952.

Q. And now will you tell us who attended that meeting and where it was held that you just referred to a moment ago. A. The four people that I cited: Lavin, O'Locklin, Blumberg. They are the three I remember for sure were there. There were, as I remember, about eight or ten people there from the Building Trades Council.

[3457] Q. Will you try to remember who they were, please. A. There is others whose names I don't remember, but there was a member of the Electrical Union whose name I don't remember, but who I recognized when I see him.

Q. All right. If you can't remember his name, at least try to identify him, please. A. Yes, I can't directly identify any others, but my guess is there were eight or ten there.

Q. I see. And how many have you identified so far? The four that you mentioned— A. I identified three by name and the one as being a member of the Electrical Union.

Q. I see. Now, was there a representative of the Operating Engineers there? A. No.

Q. All right. Now, what happened at that meeting? A. At that meeting we discussed the hardship that the industry was being put to, described the extent, number of people—the number of jobs that were closed down; the number of people that were out of work.

Q. At whose instance was the meeting called? A. I know the—some of the Building Contractors group talked to them, and I wouldn't be sure whether the request had come from us or from the Building Trades Council.

[3458] Q. And where was— A. But I know that we did learn—were informed that there was a meeting to be held. We had discussed the possibility before, and there was a meeting held.

Q. And where was it held? A. At the Building Trades Council Office on North Broad Street.

Q. And will you tell me again about when that took place. A. My guess is it was in June or early July.

Q. Now, did the meeting—did the group at the meeting come to any decision regarding what was to be done? A. No, not at the meeting.

Q. Well, when was the decision made? A. We were informed several weeks afterwards, as I remember it, that they were going to take the action that they had—did take.

Q. What action was that? A. Of refusing to let their people work on the jobs of the Operating Engineers, because their own men were thrown out of work on other jobs.

Q. That is, where Engineers were working on other jobs, they would refuse to let their men work on those jobs? [3459] A. Yes.

Q. Who made that decision? A. As far as I know, the Building Trades Council.

Q. Who communicated the decision to you? A. Well, the decision came to the office of the Building Trades—of the Building Contractors Association, and then they communicated with the rest of the people on the committee.

Q. On your committee? A. Yes.

Q. Do you recall when that was? A. Early August.

Q. Was it in the form of a written communication? A. I am not sure, because as I said, the information came to me from the Building Contractors Office.

Q. Would you mind after you get through here making a search and making an inquiry and see if you can't find that memorandum, please. A. Yes.

Q. Now, you gave one meeting, but I think you said that you may have had—or did I understand you correctly to say you had another meeting? A. It is my memory that there were two meetings, and I [3460] am not sure whether there was—may have been more, but in my memory there were two, and I am not sure whether one was in 1951 and one in 1952, or both in 1952.

Q. I see. Well, now, this meeting that was just mentioned, was that the last meeting that you had with the Building Trades Council? A. Yes. Now, there may have been two such meetings at that time in 1952.

Q. And that was to determine what should be done? A. Yes.

Q. And on any of those occasions were the Operating Engineers represented? A. No.

Q. Was there anyone particularly in the Building Trades Council who seemed to be more familiar with the situation in briefing the group or talking for the group, let me put it that way? A. No, I think a great number of them, or a number of them asked questions, and one or more of us would answer the questions, and I don't think there was anyone that asked a preponderance of the questions.

Q. Well, what I mean was, was there anyone in the Building Trades group who seemed to be acting as chairman? A. I think Blumberg did, but I am not 100 per cent sure. [3461] I remember his being there, and I think he did.

Q. You participated in the discussions? A. Yes.

Q. And all of your people did. Who else from your side of the table attended those meetings? A. I would be pretty sure that the secretaries of the two Associations were there. That is Mr. Buckley of the Excavators Association, and Mr. Glasgow, who belonged to both the Excavators Associations and the Contractors group. And I think Gary Lauter was there. I am pretty sure. Gary Lauter. G. H. Lauter. I think that Russ Cullen was at either or both of the meetings.

Q. Now, were there any other discussions between the Building Trades Council and your group, you or your group? A. I received some phone calls from the members of the Building Trades Council from time to time asking some questions on the matter.

Q. Who particularly would call you? A. I think Blumberg called me. I think Lavin called me.

Q. Can you state how often? A. I would guess there were a half a dozen calls, possibly, from—not from each, but from the two of them.

Q. And what did they want to know? [3462] A.

They wanted to know whether we had—in one case, whether—they had heard that we had reached a settlement. I think that may have been more than one case that such a question was raised by the members of the Building Trades Council. Wanted to know if we had any information about such of our jobs as has gone on without Operating Engineers, how long they would be able to continue.

Q. You mean where the Operating Engineers were striking? A. Yes, were striking. And where some of the jobs, as you know, closed down quickly, because some jobs you can do very little or nothing without Operating Engineers, and some other jobs continued with some other trades for a while. And as time went on those jobs ran out of the kind of work they can do without Operating Engineers.

Q. Were they cooperating with you on trying to keep those jobs working where the Operating Engineers were on strike? A. They didn't remove any men from them.

Q. Then I assume they were cooperating with you. A. If that is what you mean by cooperation, yes.

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[3463] Q. In your discussions with the Building Trades Council, were the discussions directed toward effectuating an end of the strike? A. Yes.

Q. That is, when I say strike, I meant a strike of the Operating Engineers. A. Yes.

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[3464] Q. Did you have any other meetings with Maloney following that Chicago meeting? A. Yes.

Q. When were they held? A. Later in July, towards the end of July.

Q. How many were there? A. Well, I think—it was one meeting which extended over a couple of days.

Q. Is that the only other time you saw him besides the occasion when you saw him with Mr. McGrath? A. Yes.

Q. And how did you learn about the second meeting?

I mean, how did you come to go to that second meeting? A. I received a telephone call.

Q. From whom? A. From Mr. Maloney's office.

Q. Where were you when you received the telephone call? A. I was in Philadelphia.

Q. Where? A. I had received, I think I received two calls. I received one call to be prepared to come to the meeting.

Q. From whom? A. From Mr. Maloney's office.

[3465] Q. When was that? A. I think that was on the morning of the day that I went out to Chicago.

Q. And do you recall who in Mr. Maloney's office called you? A. I don't remember whether that was his secretary or whether it was Mr. Carter or—but I know I got a call to be prepared to come to Chicago.

Q. And then— A. And then I found out that the—the schedules of the planes, and finally made a reservation on the last one that would get me there that day; went out to the airport and called the office back and then picked up the call from there, because the call had come in in the meantime.

Q. Which call had come in in the meantime? A. Had come into my Philadelphia office, and I picked it up, answered the operator's call.

Q. In other words, you got that second call by your calling the office and not the office calling you? A. No, I called my office in Philadelphia to see if the message had come in setting the exact time for me to come out. And I got to the airport, I called the office. The call had come in. I picked up the call and was asked if I could come out right away.

[3466] Q. Now, did you go out right away? A. Yes. I think I left within a half hour.

Q. You had already made the reservations in the meantime? A. I made the last plane that would get me there in daylight hours that day.

Q. When did you get there? A. I think about six or

seven o'clock. It was either a three or four o'clock plane. Three-hour flight out there.

Q. And did you see Mr. Maloney that day? A. No, I got there after—around dinnertime.

Q. Who did you see in Chicago that day, that evening? A. I ran into Mr. Carter, who was staying at the same hotel.

Q. Did you know where he was staying before you went there? A. No, no, I didn't.

Q. It was just by chance you ran into his hotel? A. Yes.

Q. Did you have dinner with him? A. I don't remember whether I ran into him at dinnertime or whether it was after dinnertime.

Q. How much time did you spend with him that night? A. An hour or so.

[3467] Q. What did you talk about? A. Talked about this matter of this strike.

Q. Did he tell you that he had already been in conference with Maloney and Underwood? A. I think so.

Q. In fact, you knew that beforehand, did you not, before you went to Chicago? A. When I received the call—early on the day I went out, I was told there was a meeting going on out there, and could I come if I was needed, and that is why I made the reservations.

Q. Did you personally handle the call, that first call? A. I talked. I don't know whether the—no, I think our operator probably answered it, and then when the call was for me, referred it to me.

Q. I see. Well, now, you can't remember who you talked to? A. I don't know whether it was Mr. Maloney's secretary or Mr. Carter.

Q. Were you told at that time that a meeting was taking place? A. Told there was a meeting taking place and wanted to know if I was available to come out for a meeting.

Q. When prior to that time had you last talked to Mr. [3468] Carter? A. I think it was about a week or ten days before.

Q. Did you talk to him in person or over the telephone? A. Over the telephone.

Q. Where was he at that time? A. That was a call, if I remember—I referred to earlier that I made a week or so after the meeting our Committee had with Mr. Carter in Newark.

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Q. Now, after your Chicago meeting, did you go home alone?

MR. McHUGH: Which Chicago meeting?

By MR. FREEDMAN:

Q. With Maloney. A. You mean the one that Underwood and Carter were at, or the one that I was with—

Q. The second one. How many Chicago meetings were there? A. There was one meeting which I attended with McGrath, which we discussed, early in July.

Q. Yes. A. There was another meeting in which Mr. Underwood and Mr. Carter and Mr. Maloney were there. I went out to [3469] that one alone.

Q. John Carter was also there, was he not? A. Yes. I came back on the same train with the Carters.

Q. With both Carters? A. Yes.

Q. When was that? A. I think that was the evening of the—if I remember correctly, I got out there in one evening, say six or seven o'clock—the meeting in which Underwood and Carter—the Carters and Maloney and I were present was over parts of two days. I came back then on the third night.

Q. During those periods did you confer with Maloney at any time alone? A. I am quite sure there were times in which I was asked to go out of the room, and I conferred with Mr. Maloney; and I think there were other times that Mr. Underwood was asked to go out and I conferred with Mr. Maloney.

Q. At all times was Carter present? A. I don't think he was present at all times.

Q. In other words, there were occasions when you were alone with Mr. Maloney? A. I think so.

Q. And how many were there? A. I am not 100 per cent sure whether when Underwood [3470] was asked to go out, whether Carter remained or whether it was Carter and Maloney and I. I know there was a period when young Carter was—either went out or was asked to go out, and then there was another time, I am quite sure, that Mr. Underwood was asked to go out. There were other times, more than once, that I was asked to go out, and I am not sure whether when Mr. Underwood was asked to go out and young Carter was out, whether Carter, Sr., stayed throughout the time, or whether he didn't.

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Q. Now, between the time you saw Maloney in Atlantic City and your last Chicago meeting, did you communicate with Mr. Maloney in any way? First of all, let me ask you: Are you sure that you didn't see him between those periods? A. I am sure I didn't see him.

Q. All right. Now, did you talk to him between those periods? A. I think I tried to get him on the phone, and I am not sure whether I got him on the phone or not in that time—between Atlantic City—between the date that I was out there at the meeting Mr. Underwood attended and the time I saw him in Atlantic City.

[3471-3472] Q. You don't recall talking to him at all between those dates? A. I am not sure that I did.

Q. You have no recollection whatever? A. Understand, Mr. Freedman, this thing with us was a continuous process. It was the main thing that we had to do at that time, was to try to get this strike over. I personally had no work going on at the time. We had every occasion that—everything I was doing was in connection with this strike. I was talking to our own people. I was talking to our own attorneys. I was talking to the individual members of our Association that would call me. I was talking to my sec-

retary. I was talking to the members of the other Committees, the members of our Joint Committee; the officers of the other Associations. Now, I can't be sure at this date whether as of some particular date I discussed a particular letter or not. I would say this: That if that letter had come out and I knew it before the date of the meeting with Maloney, I would be quite sure I discussed it.

Q. I am just trying to get your best recollection. A. I have given you my best recollection.

[3473] Q. My last question was not directed to the letter, but was to whether or not you talked to Mr. Maloney at any time between your Atlantic City meeting and your last Chicago meeting. A. Well, if I remember correctly, there were ten days or so between our Chicago meeting and the Atlantic City meeting. I would be pretty sure that I didn't let ten days go by after that without trying to reach Mr. Maloney. I don't know at the moment whether in that period, whether I did reach him or not.

Q. You feel, however, that you did during that period of time? A. If somebody were sure that I did, I would be in no position to deny it. I think it likely I did, because I was trying to in that period of time, and I was trying to keep active on the matter; I would be inclined—I know that I must have called him in that period.

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Q. Did you see anyone else in Atlantic City concerning these matters? [3474] A. Mr. McHugh was down there.

Q. Pardon me? A. Mr. McHugh came down and stayed at my house for a day or so, and he was with me part of the time when I was hanging around the lobby trying to collar Maloney.

Q. Was he there while you were talking to Maloney? A. I don't remember that.

Q. Did you talk to any of the other members of the Union, like Carter, down there at that time? A. I don't think that I saw Mr. Carter there. I think—I think I remember seeing Mr. Wharton there.

Q. Did you talk to him? A. Yes.

Q. What did you have to say to him? A. Went over the same business.

Q. What did he say? A. He told me that it was in Mr. Maloney's hands.

Q. Did you know that in Atlantic City a resolution was being introduced concerning these matters? A. I don't know whether I knew that it was being introduced. Before I got away from there, I heard it had been done.

Q. And you didn't know anything at all while you were down there? A. I don't say I didn't know anything at all. I told [3475] you that on this matter, I knew before I came away from Atlantic City that it had been done.

Q. Are you talking now about the order terminating the strike, or the resolution of the A. F. of L.? A. I knew before I left Atlantic City that the resolution had been introduced in the American Federation of Labor.

Q. And what about the order terminating the strike? A. I knew that before I left Atlantic City, but I think, I am not sure of this, I think I got notice by talking to Philadelphia. I was in constant touch with Philadelphia, and I think that I learned that by talking to our Association office, or one of the other members of the Committee, or somebody in Philadelphia.

Q. But you are not sure of that? A. I am not sure of that.

Q. Now, prior to that time a membership meeting had been held by the Union to consider certain of the proposals of the Contractors, is that right? A. Yes, I am quite sure of that.

Q. Do you know anything about that? A. Whether they had a meeting?

Q. Yes. A. I know—I am quite sure they had a meeting.

Q. Did you consult with Mr. Maloney regarding the [3476] proposal to be submitted to the Union membership? A. I know that after the meeting that I attended with Mr.—in which Mr. Underwood and Mr. Carter were

present, that Mr. Maloney called me and asked me if a certain basis would be acceptable to me for the—and to us for the settlement.

Q. Now, when was this call? A. That was sometime after our Chicago meeting and before I went to Atlantic City. I would guess the latter part of July or the middle of July.

Q. Was that before the meeting of the membership held in Philadelphia? A. The meeting of what membership?

Q. The Union membership. A. I don't know whether the Union had a membership meeting after that or not. I knew they had one about the end of April, but whether they had other meetings after that or not I don't know.

Q. Well, the meeting that I referred to before was a meeting of the membership to consider the proposal advanced by Mr. Maloney.

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[3477] Do you know anything about that proposal? A. I know that Mr. Maloney called me on a proposal and told me he was going to call Mr. Underwood, or had called Mr. Underwood; and then I got another call as a result of that that I was to call Mr. Underwood and arrange an additional meeting here in Philadelphia.

Q. You got another call from whom? A. From Maloney. And then following that I called Underwood, and we had another meeting.

Q. You mean with Mr. Underwood? A. Yes.

Q. Now, I am talking about a meeting of the membership to consider a proposal which Mr. Maloney advanced. A. I thought I answered that question before, in which I said I do not know of any meetings of the membership to consider that proposal.

Q. Well, do you know the proposal I am talking about? A. If it is the same proposal that he called me about [3478] and following the visit out there, and following which we had the meeting with Mr. Underwood, yes, I know that proposal.

Q. What was that proposal? A. As I remember it, it was some compromise between our last agreement and the Union—Underwood's demands, and a basis for a suggestion that the Welfare Funds be consolidated.

Q. Was that proposal something less than the independent agreement?

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Q. Was that proposal something less than the independent agreement? A. I think it was more in some respects and less than in others. As a guess, I would say it was about, probably something less on the whole.

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[3479] Q. Can you tell me in what respect it was more than the independent agreement? A. I think the master mechanic situation was worse than in the independent agreement, worse for the Contractors.

Q. Do you remember the proposal which Mr. Maloney submitted to the membership? Do you have any knowledge of that at all? A. I don't know, as I told you before, whether the proposal was submitted to the membership to coincide with this one he called me about or not, or whether a different proposal was submitted to the membership.

Q. You said that the master mechanic provision was worse than what it was in the independent. What was it in the independent? A. I think it was, I am not sure, but I think it was seven revolving machines.

Q. In the independent? A. In the independent.

Q. And what did you propose? [3480] A. Well, I had not proposed that much, but I think Mr. Maloney's suggestion was something more severe on the Contractors than the seven revolving machines.

Q. And what was that? A. I think it was either five revolving machines or seven machines without being limited to revolving.

Q. Was there anything else that you thought was better than the independent? A. Yes, I think there was an item about the pump operators that was better for the Contractors than the independent agreement.

Q. It was better for the Contractors? A. Yes.

Q. When I said better, I meant from the Union's standpoint. A. You mean worse for us, then?

Q. Worse for you, yes. A. Not that I remember.

Q. Now, there were other proposals which Mr. Maloney submitted which were better for you and worse for the Union, weren't there? A. The only two that I am fairly sure of are, first, that the one on the pumps was worse—was better for us, and the one on the master mechanic was worse for us.

[3481] Q. And are you sure about that provision on the master mechanic? A. I am not sure. I am not sure that—those two items may have been in reverse, but there was one item that I remember was slightly worse for us and one item was slightly better for us.

Q. Now, where did this conversation take place? How did it take place, over the telephone? A. See, as it happened, I was attending a meeting in our attorney's office when the call came through for me.

Q. Do you remember when that was? A. I think it was late in July.

Q. And you spoke directly to Mr. Maloney? A. Yes. He called me.

Q. How long did you talk to him? A. My guess is five or six minutes.

Q. Did you have the proposal already prepared when you talked to him? A. No, he called me following the meeting that we had in Chicago.

Q. I see.

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[3482] Q. I see. And he asked you, according to what you say, whether all of these things that you submitted were satisfactory to you? A. No, he did not. He asked me if I would be willing to accept a solution on that basis, which was more than I had offered at any time up till that time.

Q. I see.

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Q. Now, during these meetings that Carter came into Philadelphia, or that Carter held in Philadelphia with you and with the Union, was he accompanied by anyone from the [3483] New Jersey Local or by anyone else? A. Yes.

Q. Who? Can you state? A. There were, I think on one occasion—I think he was there—was here for two days, and on one day I think young Carter was here, and then on the other day I think Duffy was here. Now, whether were both here on any one of the two days, I don't remember.

Q. Was Weber in attendance at any time? A. I don't think so.

Q. Now, during all of this period, did you meet with anyone else from the International Union or talk to anyone else from the International Union— A. No.

Q. —during all of this period? When I say "this period," I mean not necessarily the time that Carter was in on these particular meetings that we are talking about now. A. Well, I told you that when we were in Atlantic City I saw Mr. Maloney several time, and there were a number of people there when he was there, and—

Q. Can you identify those people? A. Well, Hunter Wharton was one of them.

Q. Did you see or talk to Hunter Wharton on any other [3484] occasion than at Atlantic City? A. No, not that I recollect. I had called him—

Q. In 1952, you mean? A. Yes, I had called him early in 1952—had called Maloney either early in 1952 or 1951 and didn't get Maloney on the phone, but got Wharton, whom I hadn't met at that time, and to ask him to have the International come up and intervene.

Q. What kind of a response did you get out of Wharton? A. He said he would look into it.

Q. And that was in Atlantic City? A. No, no. That was, as I said, I called him—you asked me if I ever talked to him at any other time.

Q. That's right. A. And I said I called the Interna-

tional office trying to get Maloney, couldn't get Maloney; was told that Mr. Wharton would take the call, and talked to Wharton. And I don't know whether that was in 1951 or early 1952. I think it was early 1952.

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[3485] Q. Did you know Mr. Thomas? A. Yes, I met Mr. Thomas—he was down in the court case before Judge Clary.

Q. Had you ever met him before that time? A. I think he was one of those that was down in the lobby of the hotel in Atlantic City when I was there.

Q. At the Ambassador, was that? A. It was one of the big hotels. I think it was the Ambassador, yes.

Q. And that was at the time you saw Maloney? A. Saw Maloney, and I say there were a number of others around.

Q. Is that the first time you saw Thomas? A. First time I ever saw Thomas.

Q. Had you ever talked to Thomas prior to that time? A. No.

Q. Who introduced you to him? A. I imagine it was Mr. Maloney or Mr. Wharton, because he was around there for two or three or four days, and I kept running into them all the time, because I was pressing Maloney directly, and then pressing Wharton to have Maloney make some decision. That was my reason for being at the hotel.

Q. Did you carry on any conversation with Thomas? [3486] A. I think that he was one of those when there were a number of people standing around, one of those involved. I don't think of anything particular that he said to me or I said to him.

Q. Well, was he present when you discussed your situation with Maloney? A. I think he may have been, yes.

Q. Or Wharton? A. Because when I discussed it with them, it wasn't possible to get Mr. Maloney alone. When we were talking there was always somebody else around.

McDONALD REPORTS—1949

[The following exhibits (pages 958a to 992a) are excerpted from reports made by John J. McDonald, 3rd General Vice President, to Wm. E. Maloney, General President of the International Union of Operating Engineers, during the year 1949.]

Exhibit P-122

[Letter, January 20, 1949, McDonald to Maloney.]

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Extreme opposition was offered by the contractors when the report of the Solicitor of the United States Department of Labor over the seal of the department and the signature of Maurice J. Tobin, Secretary, was offered in evidence. This contained the findings of the Labor Department Attorney who conducted the upstate survey outlined in my letter of December 10th, and which upheld our contentions for Philadelphia building rates on upstate heavy construction, and which rates be contained in future wage pre-determinations of the Davis-Bacon Section. The Contractors' associations still continue to advise their members not to pay the awarded increases retroactively to May 1, pending final determination of the arbitrator.

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The coming elections of officers is providing much interest with many filing their intentions on time, prior to January 15, though not financially capable in accordance with requirements of our law. More than half the applicants for Business agent are not financially capable as they have not been in good standing for the calendar year previous to the filing of their intentions. I will discuss this situation with you in Miami. Already, a scurrilous election letter has been circulated by the opposition.

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I expect Serious interference and opposition from the laborers over the wage rates and operation of pumps and

compressors as negotiations with highway contractors progresses.

Exhibit P-123

[Letter, January 26, 1949, McDonald to Maloney.]

On Monday the 22nd and Tuesday the 23rd the January Executive Board and monthly regular meetings were held. The former was without special incident, while the regular meeting dragged on till 12:30 A.M., with continual wrangling. The six Business Agents reporting in order prolongs the sessions, and the reading of the declarations of intentions created much interest.

On last Friday morning I went to Barbadoes Island outside Norristown, where the Dravo Company are building a power plant for the Philadelphia Electric Company and where a threatened work stoppage was advocated, because the contractor did not pay the retroactive pay to May 1. Knupp, the superintendent was away and I talked with Whitney his assistant, in company of the Master Mechanic and the Shop Steward. The contractor has the check of each man to the number of 30 made out and ready for payment but will not release till contract is actually signed with the local contractors.

Together with Underwood, I called a meeting at 12 Noon in the Compressor House, explained the circumstances to the men, advised that no strike would be permitted and that the places of anyone quitting would be readily filled and they would be disciplined for insubordination. The threatened strike petered out.

Exhibit P-125

[Letter, February 23, 1949, McDonald to Maloney.]

Blumberg, representative of the Painters continues

to notify his contractors not to use engineers on compressors used to operate paint sprays. An extensive alteration job is being performed on an office building on Chestnut at 19th Street, right in the heart of town. Henry S. Rau is the Painting Contractor and is using a 220′ compressor, which is sitting out on the sidewalk like a sore thumb, and gives us no end of complaints from the idle members. Anything that can be done to cause Lindelof to issue definte instructions to Blumberg will be appreciated.

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The local political picture is very encouraging. None of the old Jasper White group have filed their intentions with the exception of Mogan, and they were not close toward the end. I would not have been surprised had White filed, and his attitude indicates he is definitely through. Business Agent Frank DiDonato tendered his resignation to Underwood last Friday and it was readily accepted.

Matters in general are progressing favorably, with some but not too many unemployed.

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Exhibit P-126

[Letter, March 1, 1949, McDonald to Maloney]

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I was at your office last Wednesday and signed General Executive Board Resolution. While in Washington I visited the Labor Department together with Underwood and had a problem of interest to Local Union 542 regulated.

Several progressive resolutions among the regular routine were adopted at the monthly Executive Board Meeting and accepted at the Regular Meeting. The Local Unior on my advice will invest $50,000. to $75,000. in U/S. Government Bonds. A committee has been appointed to investigate and recommend suitable new quarters as we have already received notice to vacate on expiration of present lease. Michael F. Mogan and Charles Lee were granted honorable life membership.

At the regular meeting, I made a plea for financial assistance for Brother Penglase of Local Union 835, to defray some of his campaign expenses for election to the Pennsylvania State Senate, I received a total of $160. with the passing around of the hat.

The meeting dragged all evening, with election candidates attempting to make themselves prominent and outstanding and making themselves ridiculous instead. DiDonato, a Business Agent, who resigned last week had a group of his friends present a resolution requesting his reinstatement. I forbade Underwood to accept the motion and ruled it out of order.

At about 11:30, I talked to the meeting at length, told them that they had the best Local Union on the eastern seaboard and showed them the benefits they now enjoy, such as the cleaning up of the Local Union, the adoption of a substantial death benefit, the stabilizing and advancement of wages and working conditions, the improvements of their financial standing and numerous other benefits. I told them their meetings must open at 8 which they do now and adjourn by 10, in line with the policy and procedure of most properly conducted labor union meetings.

I told them further that our International Union and the Local Union could well afford to get along without the membership of the possible half dozen who are trying to cause dissension at the meetings. I further warned them that if I took their cards away they might never get them back and told those making wild accusations and charges that I was going to make immediate investigation, and summon them for a hearing before me where a stenographic record would be made of their statements and they better stand up, or accept the consequences. The meeting adjourned at about 11:50 P.M.

Matters in general are progressing favorably.

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Exhibit P-127

[Letter, March 8, 1949, McDonald to Maloney.]

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During the past week I have been in and out with Underwood checking on various rentable floor space, as the Local Union has been ordered to vacate on expiration of lease. A committee has previously been appointed to select and recommend for purchase, a permanent office and headquarters for the Local Union.

* * * * * * * *

I am instituting an investigation beginning next week and will summons some who have been making wild and scurrilous statements in an endeavor to promote dissension, to appear before me and prove their allegations. I will cause a stenographic record to be made of the proceedings.

Matters in general are progressing favorably.

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Exhibit P-128

[Letter, March 11, 1949, McDonald to Maloney.]

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On last Tuesday morning the men sent over to operate the dinkey locomotives on the James N. Driscoll job were run off by the Business Agent of the Laborers and a gang of their men. I visited the job with Underwood about noon and stayed around till 4 P.M. Driscoll, two colored Business Agents together with Lavin arrived about 2:30 and 3 P.M. They contacted their Vice President Waldron at Washington who issued instructions not to remove the laborers operating the dinkeys under any circumstance.

The job is working around the clock and the men on the cranes, pumps and compressors were taken off at 6 P.M. The contractor arranged to enter a case before the National Labor Relations Board, claiming an unfair labor practice, with his job tied up over a jurisdictional dspute. To avoid his charge before the Board, I have agreed to return the job as of this morning at 8 A.M., to be taken

out again Sunday morning at 8 A.M., this time for violation of signed agreement.

Most of our contractors have satisfied the claims of the membership for their retroactive pay. Some paid most reluctantly. The Virginia Engineering Company finally agreed to settle this week on their Wilmington job, which cleans up the State of Delaware on back pay claims.

In compliance with your instructions numerous telegraphic and written demands on the Pennsylvania Senators have been forwarded by the officers and members of Local Union 542, for their support in repealing the Taft-Hartley Law.

Matters in general are progressing favorably.

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Exhibit P-129

[Letter, March 19, 1949, McDonald to Maloney.]

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Beginning with Wednesday Evening, I have instituted an investigation of the affairs of the local union and have summoned many to appear before me to make statements for the record, being made by a stenographer. An organized effort to delay the progress of the meetings has caused considerable discontent and I have summoned the front men to appear. I am also investigating certain jobs and have summoned business agents, master mechanics, shop stewards and members working on the projects. This investigation will continue for several weeks and much good will be accomplished.

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The candidates for election are very active with several meetings going on weekly. My decisions and directives after my investigation will have extensive effect on the election, and its method of conduction.

Work is progressing very favorably, and the unemployment list is diminishing rapidly.

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Exhibit P-130

[Letter, April 13, 1949, McDonald to Maloney.]

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The Arbitrator has rendered his final supplementary report, which was the nicest piece of straddling I have ever seen. The Arbitrator stated that there will be no permanent solution in this area as long as two sets of rates and conditions apply to members of the same Local. The one problem is the difference in overtime rates, and referred the matter back for final settlement through collective bargaining. He further maintained the same position on the question of the application of building wage rates to heavy construction. Our negotiations for new contracts will in all probability be in full swing during the incoming week. Our unsigned retiring agreements expire May 1.

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Campaigning for election is rather brisk, otherwise matters in general are progressing satisfactorily.

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Exhibit P-131

[Letter, April 21, 1949, McDonald to Maloney.]

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Upon receipt of your telegrams of the 19th a ready investigation of the circumstances surrounding the work stoppage at the Carey Manufacturing Company Project in Montgomery County was made, and this job had been put back after a shut-down of about one hour caused by an over anxious business agent.

On last Tuesday the regular monthly meeting of the Executive Board was held and on the following Thursday the regular monthly meeting of the Local Union. I advised the board members that the regular annual election of officers would be conducted by referendum, and that the only one to be elected aside from the officers would be the Business Manager, who in turn would appoint his business agents. This procedure was approved and adopted at the regular meeting.

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Matters in general are progressing favorably with but few capable operators unemployed.

Exhibit P-133

[Letter, May 13, 1949, McDonald to Maloney.]

On my return from Hot Springs I found that the Local Union had started its negotiations with the four (4) Local Employing Groups, and without offer or concession by either side, agreed to a continuation for a 30 day period beyond the May 1 expiration date.

The scheduled meeting with the Associated Pennsylvania Constructors for Friday, May 6 at Harrisburg was not attended by the contractors, but a letter to their membership submitting a questionaire seeking information as to their individual position and attitude towards the signing of a labor agreement, was discussed by the representatives of the interested trades. The attitude of the Association is most discouraging and a deliberate indication to stall.

There are few if any capable operators unemployed and the opportunities for work over a long season are very bright.

Exhibit P-137

[Letter, May 19, 1949, McDonald to Maloney.]

The May Executive Board Meeting was held on last Monday evening and was without incident. On the following evening at Town Hall, the regular May meeting was held and liberally attended. The Nominations of Officers was the topic demanding most attention.

The only candidates financially capable, was determined as those paid up on or before the first for the current month and for the calendar year prior to the filing of in-

tentions for elective office, was the accepted basis of eligibility. The acceptance of the referendum method of election and the appointing of business agents by the elected business manager were protested by the opposition to no avail. A motion to include on the ballot a proposition to extend to a two year term of office for those elected advocated by the administration was lost by a vote of 142 to 149. The amount of the opposition is insignificant and I look for no upset. Baronett, a business agent, is opposing Underwood for Business Manager and President and is relying for his support on the Italian vote. For Vice President there are five candidates, four of whom are Italians. There is opposition for Treasurer, and Michael F. Mogan will be elected there. The total number of contested offices are but four (4) including business manager.

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Few are unemployed and conditions generally are good.

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Exhibit P-138

[Letter, May 26, 1949, Maloney to McDonald.]

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I have your letter of May 13, 1949, about Local Union #542 and the attorneys wanting to start a lawsuit. You say that next Tuesday's meeting will include nominations of officers and that then you would be able to find out what happened.

Please keep me posted on this situation, find out who is nominated for office and what the situation is there. From what I hear from the outside they are fighting so much among themselves they are going to ruin the whole setup.

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Exhibit P-140

[Letter, June 31, 1949, McDonald to Maloney.]

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Final arrangements for the conduction of the Election of Officers in this Local Union by referendum vote has been accepted by agreement of both parties, their lawyers

concurring, and the ballots will be mailed out next Wednesday, June 8.

The accounting firm of Ernst and Ernst have been retained and they will mail and receive the ballots, and count in the presence of the watchers. The membership have been granted an extension till June 21 for the return of their ballots.

Meetings are being held by both sides in the various cities throughout the territory and campaign literature in the form of candidate's letters are plentiful. One even gave me considerable mention, even though I am not a candidate.

Aside from the contests of Underwood and Baronett, there is opposition for but two major offices. I am enclosing copy of ballot for your information.

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Exhibit P-144

[Letter, June 8, 1949, McDonald to Maloney.]

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The Upstate Highway Organizing Committee met last Monday morning in the State Federation of Labor Building, Harrisburg and have finally proposed and agreed upon some militant action to affect some organization on this type of construction. The Laborer is still chiseling, hoping to include heavy construction.

The W. J. Williams Company out of Richmond, Va., C. J. Langenfelder and Son, Baltimore and the Harrison Construction Company, Pittsburgh have secured contracts for sections on the Turnpike in the York, Dauphin and Lebanon Counties Areas, have definitely refused to enter into agreements and their jobs are officially ordered on strike as of this morning.

Pickets signs are in readiness, pamphlets are printed and ready for distribution, and pickets are to be paid $10.00 per day. The cost of the pickets was a very controversial subject.

It has been generally agreed that the Initiation Fees

be limited to $10.00 for journeymen and $5.00 for the helpers and nonskilled, such as Laborers. I recommend that a $10.00 Initiation Fee be approved for a branch subdivision, of Local Union 542 to apply throughout the upstate area on highway construction, to meet this organizing situation.

Exhibit P-146

[Letter, June 17, 1949, McDonald to Maloney.]

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In accordance with your instructions I have acquainted President Underwood with the contents of General President Lindelof's letter of June 1 to you, in which he indicates to Blumberg that an engineer must man the compressors on large painting operations. Underwood is most appreciative of your assistance and cooperation in having this abuse corrected.

Presently there are no painting operations in progress in this area where compressors are in operation, so we cannot immediately test our success in the compliance with the instructions.

Demand for the employment of an engineer on the compressor will be readily made on the first worthwhile painting operation and I will be happy to advise you of the outcome.

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Exhibit P-147

[Letter, June 17, 1949, McDonald to Maloney.]

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Not too much progress has been made on the organization of the turnpike during the last ten days. Authorization cards are being distributed to the workers, and active picketing will start next Monday morning at 6 o'clock. Requests for meetings have been made upon the three struck contractors, and two have agreed subject to compliance by the third, who to date will not concede. I assure

you that this Local Union will make every effort to organize road work in this area and will succeed, if any Local Union can. If they fail it will not be due to any lack of effort nor sparing of expense. Your letter of the 6th arrives at just the right time and provides the necessary punch, as I expect they will provide several additional organizers at least for a limited time, after the election. Placing of another charter in the area would not improve the conditions, when the present officers and administration are willing to cooperate and endeavor to organize the territory.

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There are very few competent operators unemployed throughout our entire area.

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Exhibit P-149

[Letter, June 24, 1949, McDonald to Maloney.]

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This Local Union held its regular monthly Executive Board Meeting on last Monday evening and its regular monthly meeting on Tuesday, both of which passed without special incident. Ernst and Ernst started their counting of the election ballots in the presence of witnesses for both sides after 1 on Tuesday afternoon and finished before 5 P.M. Their election conclusions (copy enclosed) were announced at the regular meeting and by motion accepted unanimously by about 550 members in attendance. The newly elected officers will be installed at the July meeting.

* * * * *

The Turnpike Organizing Committee are not making too much progress and are calling a special meeting for next Tuesday morning at Harrisburg. The Laborers are trying to direct policy and are making a sad mess of the situation. The laborer means nothing to the contractors for they can pick up more than they need locally, and consequently the laborers' Union will accept anything even declaring that he would accept less than in the state specifi-

cations. It would be hard to convince our engineers that they should not get at least the Western Pennsylvania wage rate of about $2.37 per hour. The state specifications provide $1.95 per hour and Local Union 542 is requesting its old Philadelphia Area Highway wage rate of $2.40 for heavy equipment operators.

Harrison, one of the struck contractors, works union elsewhere and practically all of his operators belong to Local Union 66. Langenfelder out of Baltimore operates on a union basis elsewhere and has offered three of our shovel men $2.95 per hour to come to work for him on his turnpike section. He likewise has a number of hidden card carriers. It is the intention of this Local Union to provide several additional organizers of our own, and it may be necessary to negotiate our own separate agreements, and assist the other trades at a later time as the opportunity would provide. The laborer would not hesitate to do just that if he was in our position.

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Exhibit P-151

[Letter, June 30, 1949, McDonald to Maloney.]

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This Local Union is making an honest and sincere effort to organize this project and is cooperating with the other trades. I look forward to some substantial progress in the near future. This is intended to be explanatory of conditions on the turnpike to date, and in reply to your telegram of June 27.

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Exhibit P-152

[Letter, June 1, 1949, McDonald to Maloney.]

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The Election in this Local Union is now over and conditions in general are rapidly returning to normal. The Business Agent who opposed Underwood for Business

Manager and President and was defeated, feels that he should and is endeavoring to corral enough support to have himself reinstated as Business Agent at the next meeting.

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Negotiations with the Lehigh Valley Contractors embracing a membership of 95 performing Building, Heavy and Highway construction are practically concluded with Philadelphia Area wage rates and conditions included. Request is made for the extension of the application of the agreement to embrace Berks and Lancaster Counties in addition to Northampton and Lehigh. These counties are adjacent to the 5 county Philadelphia Area.

This Local Union is looking forward to resumption of negotiations with the four local Contractors' Associations during the next week. The union request is for a general 25¢ per hour increase across the board, retroactive to May 1.

The construction outlook is very bright throughout our jurisdiction and unemployment remains at a minimum.

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Exhibit P-153

[Letter, July 5, 1949, Maloney to McDonald.]

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I have received your letter of June 30, 1949, in regard to the Eastern Pennsylvania Turnpike and I have carefully read it.

What this office is interested in is in organizing the engineers. I do not expect you to and I do not want you to carry any of the trades on the backs of the engineers. What I want you and Local Union #542 to do is to get this job organized. Do not pay too much attention to the other trades, regardless of anyone else, and assure the contractors that if they sign an agreement with the Engineers there will be no strikes on our own or in sympathy with other organizations.

I want this taken care of immediately.

Exhibit P-154

[Letter, July 14, 1957, McDonald to Maloney.]

Yesterday Underwood and myself met with Vice President Wells of the Harrison Construction Company to discuss their labor policy on his section of the Turnpike. He contends that his company has agreed to a non-union policy adopted by members of Associated Pennsylvania Constructors who have been successful bidders and are performing on the Turnpike, with the exception of the Booth and Flinn Company who have adopted a union policy. He admits having a National Agreement, but also stated he was not anticipating this situation at the time of signing his agreement. Wharton joined us for lunch at the Fort Pitt Hotel. In our conversation he advises that he has possibly 50 members of 66 working for Harrison throughout their territory. I also talked with Miller by telephone at Memphis and he advises that he has about the same number of members of Local Union 917 working for the Harrison Company on their building construction at Alcoa and their Street and Sewer Work at Oak Ridge, Tennessee. On leaving Mr. Wells we exchanged cordial greetings, and I assured him he would be seeing me again in the very near future. With some additional activity on the part of this Local Union and the support and pressure of 66 and 917, Harrison should not be too hard to straighten up.

Langenfelder from Baltimore now being picketed by the trades, attended the fore mentioned meeting, and agreed to the nonunion policy of the contractors. In telephone conversation with Derrick of Local Union 37, he is the only remaining road contractor operating union in the State of Maryland, and is threatening to change to a non-union policy due to difficulties and strike by the Ironworkers. I expect to go to Baltimore next week and discuss

our problem with George Langenfelder. I would like to personally talk this situation over with you at your convenience.

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No progress has been made with the Philadelphia Area Employing Contractors Associations, and no too serious difficulties in negotiations are anticipated.

Conditions in general are quite satisfactory with very little unemployment.

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Exhibit P-155

[Letter, July 29, 1949, McDonald to Maloney.]

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Since leaving your office last Wednesday, Local Union 542 has negotiated a Building, Heavy and Highway agreement with the Lehigh Valley Contractors' Association maintaining the present Philadelphia Area Rates and conditions throughout. This association has 95 member contractors, and they have tentatively agreed to contract coverage throughout Berks, Lancaster, Lehigh and Northampton Counties, and our local union has made request for extension to embrace the four adjoining counties.

The regular monthly meeting of the Executive Board was held on last Monday evening, and the regular meeting on Tuesday. Both were well attended. I installed the newly elected officers at the regular meeting. At the Executive Board Meeting the conditions of the local union were generally discussed, relative to the country area and particularly the turnpike. The Executive Board recommended the appropriation of $35,000.00 for organization purposes throughout the territorial jurisdiction, paying initial and immediate attention to the turnpike. The resolution was unanimously adopted at the regular meeting. Such cooperative action by this local union, readily setting aside a liberal and sizable amount of money to carry on its work, bears out my promise to you while in your office, that Local Union 542 will organize the turnpike.

We will have no difficulties on the southern end, as DeFelice, Groves and Lane have five sections and some have already started. Lane was in the office for direction as to what qualifications he was expected to meet. He will need many men and others are, in the same condition. Such improves our position beyond measure in negotiating with the non-union contractors.

Wharton is making arrangements for a meeting with Max Harrison for early next week, and our offer of agreement is in readiness. A threat of removal of the 66 men on this section and transferring them to fair contractors, should have the desired effect with Harrison.

Negotiations for contract with the Philadelphia Area Employers' Associations is progressing satisfactorily with a general offer of a 15¢ across the board increase, excepting compressors, welding machines and apprentices, which has not been accepted.

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Exhibit P-157

[Letter, August 5, 1949, McDonald to Maloney.]

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When I telephoned you yesterday from Denver, Pa., we had just left the Myers Section of the turnpike and interviewed their superintendent Voyles and met O'Brien, Secretary of the Contractors' Association. Myers representative stated he had adopted an open-shop policy. I reminded him he was operating union at Peoria and Pittsburgh, and that he cannot adopt convenient, contrary policies. We are assigning an organizer to this project who will provide pickets and are going to work here without delay. The support of Local Unions 150 and 66 may be very necessary to support 542 in this situation.

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A tentative appointment for a meeting with Max Harrison at Pittsburgh has been arranged for next Wednesday morning at 9:30. Underwood and myself will meet

Wharton at the William Penn Hotel on Tuesday afternoon or evening. I have requested of Wharton that he assign his Business Agent Mangold to cover the Harrison Project with our Daniel A. Gardner. Most of the operators on this section are 66 members. It is my thought that a meeting might be arranged for the operators somewhere in the vicinity of the project. Underwood and myself will talk to the men and check as to prevailing conditions, and then outline to them what we expect. I anticipate early progress on the Upstate end of the turnpike and I will keep you advised.

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Conditions in general are very satisfactory and the local union is in healthy condition.

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Exhibit P-162

[Letter, August 12, 1949, McDonald to Maloney.]

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During the past week we have had a work stoppage on the Square Construction Company's Schuylkill River Sewer Project in a jurisdictional dispute with the Laborers over the operation of mucking machines. The Building Trades Council deemed our stoppage an illegal strike and ordered the laborer and teamster through our picket lines. Laborers operated the pumps and compressors while our men were off. By agreement between the parties after an arbitration, the attorney for the Street and Sewer Contractors Association, it was decided that the operation of the mucking machines belonged to the Engineers and our members to be paid for time lost including the week end overtime. The contractor refused to accept the decision, is threatening court action, and the job is still down.

On Wednesday morning, Underwood and myself with Wharton met Max Harrison of the Harrison Construction Company in their offices at Pittsburgh. They are performing on a turnpike section starting in Lancaster County and extending into Lebanon. We have arrived at agree-

ment with the Lehigh Valley Contractors' Association including Lancaster which includes a $2.65 per hour top rate for heavy duty operators.

The vast number if not all of the operators working on this project are members of Local Union 66. Sixty-six is signatory to an agreement in the Western part of the state to which Harrison is a part and which provides a wage scale of $2.47½ per hour for heavy duty operators. Harrison is also signed to a National Agreement. On this project he is paying top rates of $1.95 and $2.00 per hour to crane and shovel operators. While the find are very disappointing, they are in line with our telephone conversation of last week.

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Wharton agreed beginning next week to assign one or more or his agents to accompany two of ours and cover the Harrison and Myers Sections. If we fail to arrive at satisfactory understanding with Harrison, he will remove his men working in our territory, but hesitate to remove members of 66 working in Pittsburgh unless directed by you. Two of our other organizers working on the turnpike have found mostly all 66 men working on the Myers Project and a sprinkling from Local Union 841. Much progress will be made on this operation in the early future.

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Our local area contractors agreements have not been consummated, but are in a most progressive state.

There is much activity in the local union, and matters in general are in a healthy condition.

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Exhibit P-165

[Letter, August 18, 1949, McDonald to F. A. Fitzgerald, General Secretary-Treasury.]

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In reply to yours of the 16th, please be advised that this dispute originated over the claim of the Business

Representative of the Laborers Local Union over the operation of a mucking machine on the Square Construction Company's Schuylkill River Sewer Project in the City of Philadelphia.

On Thursday, August 4 our Business Representative Leone visited this project to make arrangements for the employment of the mucking machine operators, and was advised that the Laborers' Representative had made previous claim, and it was not their intention to engage an engineer.

Our representative then found an oiler stacking and piling plates in the buckets for lowering into the hole, and instructed him to confine himself to the duties of an oiler on his machine. He was promptly discharged. Raganese, the contractor, then ordered the compressor operator to act as the oiler. He promptly stated he served his apprenticeship years ago, refused, and was likewise fired. The engineer on the crane then refused to operate without an oiler, and he was fired. The second shift on reporting for work were all laid off. It is plainly a lock-out, and the project has been picketed. The Building Trades Council in support of the Laborers has declared ours an illegal strike, though this is sewer, and not building construction and the Council has no agreement with this Association. Underwood appeared on the project on the day following the lock-out, contacted Raganese, and offered to arbitrate the issues with the return of the men, with an engineer, to operate the mucking machine. This was flatly refused. The contractors brought in a non-union crane operator who lasted but two or three days and returned to the country.

The Contractors Association of Philadelphia in the interests of its member, attempted a conciliation and it was mutually agreed that the attorneys for both sides endeavor to arbitrate the issue. They arrived at agreement which provided that the operation of the mucking machine rightfully belonged to the engineer and that our members must be paid for all time lost including overtime for the

week-ends. After the difficulties were resolved and our members ordered to return to work on payment of wages due in line with the decision, the contractor refused to comply. Meanwhile members of the Laborers' Union continue to operate our pumps and compressors and cross our picket lines.

On August 11 I talked with Burke and Loughlin of the Building Trades Council, and they suggested I sit in with Lavin of the Laborers. I advised them that it was not my intention to discuss nor determine the craft jurisdiction of our International Union to the satisfaction of a local business agent of the Laborers, nor permit any of the representatives of Local Union 542 to do likewise.

Myron Jacoby then contacted Burke and requested that the question be arbitrated. I am reliably advised that Jacoby is one of Philadelphia's outstanding anti-labor lawyers. I have made it very plain to Burke that the question has previously been arbitrated by the attorneys for the Contractors' Association and the Union, that the jurisdictional claims of the Engineers to the operation of mucking machines has been respected and that payment for time lost has been awarded. Moreover it is not our intention to request the reversal of a favorable decision. Jacoby has threatened to suit for damages in the interest of the Square Construction Company, and our attorney advises that there is no basis.

I trust the foregoing fully explains the position of Local Union 542 in this matter.

Exhibit P-167-2

[Letter, August 19, 1949, McDonald to Maloney.]

The monthly Executive Board and Regular Meetings of Local Union 542 were held during the week and were well attended and progressively constructive.

After lengthy and healthy discussion at the regular meeting, the final offer of the four Philadelphia Area Employing Contractors Associations, embracing building, heavy, street and sewer, and wharf and dock construction work, was ordered signed and contract executed. An across the board increase of 15¢ per hour, excepting compressor and pump operators and apprentices is provided, with all types of sanitary construction removed from the sewer agreement to the heavy with building wage rates.

Wharf, dock and building will pay the top wage rates with double time for overtime including steel construction, all heavy including sanitation will pay the top rates with time and one-half for overtime while the traditional differential on road and sewer work will be maintained, with overtime at one and one-half. All Employing Groups agree to retroactivity to May 1, 1949.

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A protest meeting of many of the representatives of the area key trades will be held at the office of the Pipe Trades Joint Council on next Wednesday, the 24th, to take action to protect the craft jurisdictions against invasion and transgression by the laborers' local unions. We are in constant dispute and are preparing to take a drastic action in this jurisdiction that the laborer will not forget for a long time to come.

I am in receipt of a letter under date of August 9th from State President James L. McDevitt, advising that the members of the contractors' association are not interested in pursuing further the possibilities of a satisfactory labor agreement, and urges the trades interested in the organization of the workers to institute their initial drives. A whole year has been lost due to the interjection of Stirone, and listening to his balogna assurances and promises. We on the eastern half have already accomplished more, with the entire eastern contract not yet let, with superior wage rates and conditions than he had on the entire Western Section. I am making demand through McDevitt for the

refund of our original $1,000 donation toward the turnpike organization. There are a couple of high-binders running a racket and collecting from $150. up for donations to our yearbook which never existed, with the promise that their conditions of operating, if non-union, will not be interfered with. Four contractors have reported being contacted, two of whom donated $150. each. This is an old game and every effort is being made to cause their apprehension.

The building of the turnpike is causing considerable activity in this local union. Our agents and organizers are making daily reports of the happenings in their districts. Outside of our members, there are many from 66, 132, 137 and 18. There are about a dozen members of eighteen working on the Myers Project, and if we realize any trouble with them when we are ready, we will in all probability request Converse to assign a representative for identification. We are still waiting for the assignment and appearance of an agent from 66 to check for identification with ours, the Harrison, Patterson and Myers' Sections.

Exhibit P-167-4

[Letter, August 31, 1949, McDonald to Maloney.]

The Square Construction Company has cited the Local Union before the National Labor Relations Board alleging violation of the Taft-Hartley Act. The Contractor and the Laborer claims a jurisdictional dispute while our Union contends a lock-out. At the hearing Wednesday each was represented by an attorney including the Laborer. Our attorney was instructed to file answer by Friday of this Union's position, the contractor to do likewise.

On last Thursday we appeared before Judge Edwin O. Lewis, in the Court of Common Pleas #2 in answer to petition for injunction and damages made by the contractor. All attorneys were again in evidence also Joe Burke, President of the Building Trades Council who contends

ours, is an illegal strike and picket, and claimed to be present because subpoenaed by the contractor's attorney. Burke also had a personal audience with the Judge in chambers last Friday morning. The temporary injunction was granted Friday afternoon, restraining the Local Union from picketing and interfering. On the same day our Business Agent Jerry Leone was arrested on the job and charged with disorderly conduct and disturbing the peace.

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Max Harrison was in this office last Wednesday morning and has not changed his intended policy. He claims 80% of the heavy and highway construction being performed in the 33 counties in Western Pennsylvania despite the signed agreement, is being done non-union. Wharton is arranging for his agent Mangold to meet with our Gardner to check their membership on the turnpike beginning tomorrow.

There has been plenty of action and activity during the past week and everything remains under control.

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Exhibit P-167-5

[Letter, September 8, 1949, McDonald to Maloney.]

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Since the issuance of the temporary injunction by Judge Lewis a representative of the National Labor Relations Board advised that hearings before this board had been suspended and an agreement would be arrived at over the weekend. The status of this situation remains unchanged and the laborers continue to operate the pumps and compressors with an 825 member operating the crane on the afternoon shift. Request for cooperation has been made to 825.

In order to prevent a repetition of the above and to eliminate and stamp out future attempted raids on our jurisdiction by the laborers, this local union has initiated an organizational campaign of the non-operating workers

which has made the laborers come to life. Their local agent Lavin and Waldron their Vice President are continually calling this office and receive no response. Their representatives made first appearance on this end of the turnpike last Tuesday and were shocked and disturbed at the extent of our progress. We have representatives working in pairs, while they have been sitting back doing nothing, waiting for the engineer to clear the way for them to follow.

During the past week I have covered five of the turnpike sections with Underwood and two representatives, and talked with the contractors, their superintendents and the workers. There is an overwhelming number of 66 men employed throughout who did not report to our office before starting to work, who do not receive our rates, work broken time and are paid semi-monthly on the Patterson section. There are so many abuses on most sections, the men are restless and an opportune meeting of the operators on the Harrison and Patterson Projects has been arranged for next Monday Evening at Lebanon. In talking with Wharton, he agrees their men are working in our area, disclaims sending them in for employment and agrees to reassign Mangold to accompany our area agent to instruct their men to stop but was not too sure they would heed the instructions. I also talked to the master mechanic on the Myers Section, a member of Local Union 18 named McIntosh, who was the most insolent, abusive, and non-cooperating individual I ever contacted. He accused the business agents of being grafters for endeavoring to effect an agreement and made many similar wild and uncalled-for statements. We have made substantial progress on this section notwithstanding.

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There is much activity in the local union and matters in general are progressing favorably.

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Exhibit P-167-6

[Letter, September 16, 1949, McDonald to Maloney.]

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During the past week the National Labor Relations Board has officially notified this Local Union by letter that the Square Construction Company has withdrawn its case before their Board alleging unfair labor practices. This is the Schuylkill River Sewer Project previously referred to in past reports in which the Laborers continue to operate our pumps and compressors and they claim the operation of the mucking machine and dinkey locomotive.

On last Monday evening a meeting was held in Lebanon of the operators employed by the Harrison and Paterson Construction Companies, both of whom have sections on the eastern end of the Turnpike. The meeting was very well attended by 22 of the Paterson operators and 18 of the Harrison operators in addition to six of our Business Representatives together with Business Manager Underwood and myself.

A second meeting was held in Lebanon on Thursday evening again attended by 60 operators employed by the Harrison and Paterson outfits. Also in attendance were the same number of Business Representatives, Mangold of Local Union 66 of Pittsburgh, with Underwood and myself. This was a very progressive and constructive meeting, starting at 9 and adjourning at 11:30 P.M. A strike vote was taken in which the men declared unanimously a strike beginning Monday morning on both projects. Business Representatives will immediately proceed to the other operation being performed jointly by the Harrison Company and Johnson, Drake and Piper. Those in attendance at this meeting comprised the majority members of Local Union 66 together with a few from Local Union 132, West Virginia and about 14 belonging to no Local Union who filed application for membership in Local Union 542.

I call your particular attention to this situation wherein members of other Local Unions have accepted employ-

ment and worked for contractors on this Turnpike in the territorial jurisdiction of Local Union 542 without first contacting this office and receiving approval and also working with non-union men as proven by those who filed applications at our Thursday evening meeting.

The progress made with the men on the Turnpike over the past several weeks has been amazing and we look forward to a cleaning up of the entire siutation in the early future. I appreciate your cooperation in this situation by instructing Wharton on last Tuesday who immediately thereafter contacted me and assured me of the ready assignment of Mangold to this situtation.

Matters in general in Local Union 542 are progressing very favorably.

Exhibit P-167-11

[Telegram, September 22, 1949, McDonald to Maloney.]

WM. E. MALONEY, GENERAL PRESIDENT
INTL UNION OF OPERATING ENGINEERS
1003 K ST NORTHWEST WASHINGTON DC—
IMPERATIVE WHARTON BE INSTRUCTED TO DISPATCH TWO AGENTS TO THE TURNPIKE AREA IMMEDIATELY STOP THEIR MEMBERS CROSSING OUR PICKET LINES AND OPERATING MACHINES ON TWO PROJECTS FOR HARRISON CONSTRUCTION DESPITE STRIKE STOP SUCCESSFUL ORGANIZATION OF TURNPIKE CONSTRUCTION SERIOUSLY THREATENED STOP LETTER FOLLOWS—
JOHN J McDONALD—

Exhibit P-167-12

[Letter, September 22, 1949, McDonald to Maloney.]

The feeling in Local Union 542 is running very high against 66 and its membership working on the turnpike,

and in order to prevent any avoidable and unfortunate actions from here, I agreed at their Exceutive Board Meeting last night to contact you and request that 66 be instructed to assign two agents to the turnpike area where their men are crossing our picket lines and operating machines on both Harrison Sections on strike. Johnson, Drake and Piper with agreements with Local Unions 14 and 138 in New York have sublet their excavation to Harrison with a National Agreement, and are hopeful and threatening to operate non-union. Some of the members of 66 are on and off this operation each day after a talk by Thomas (Whitey) Franklin, Superintendent, who is supposed to be a member of 66 or out on Withdrawal Card. Franklin in his speech this morning announced to the men that they have 66 and International approval and they could cross the picket line and the worst they would get would be a small fine. Ten 66 men returned after the speech, knowing full well there was no truth nor foundation for the promises, but being gutless and spineless welcomed the excuse to go back to work.

Mangold was in our area Tuesday and gave a "pep" talk to the men which was about as encouraging to the membership of 542 as the statements made by Franklin. Our business agents present at the time reported his statement to the Executive Board last evening, and a wave of indignation prevailed. He (Mangold) stated, "You are members of 66 and you are working in 542's territory and if 542 doesn't treat you right, 66 will walk in and finish the turnpike through to Philadelphia."

If Wharton can't or won't send somebody in here and stay a few days at a time to stop their members from crossing our picket lines, we ought to know it so we won't be lulled to sleep, and can take some direct action.

This means too much to Local Union 542 and the International Union, to ignore the transgressions of 66 and this membership has a right to know what they may expect in cooperation or otherwise from 66. Local Union

542 has poured thousands of dollars into this campaign on the turnpike and there must be some way to cause 66 to recognize the jurisdictional rights contained in our charter.

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Exhibit P-167-13

[Telegram, September 25, 1949, Maloney to Wharton.]

Hunter P. Wharton
208 House Bldg, 4 Smithfield St
Pittsburgh Pa

Following telegram received from John J McDonald QUOTE Imperative Wharton be instructed to dispatch two agents to Turnpike area immediately STOP Their members crossing our picket lines and operating machines on two projects for Harrison Construction despite strike STOP Successful organization of Turnpike construction seriously threatened STOP Letter follows UNQUOTE Wire me c o E J Lee, Lowry Hotel, St Paul

WM E MALONEY

Exhibit P-167-14

[Letter, September 29, 1949, McDonald to Maloney.]

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Yesterday afternoon in telephone conversation Wharton assured me that he would contact his representative in the Harrisburg Area, and go in on the Harrison Turnpike sections and talk to his men personally if possible in an endeavor to get them to come off. He advised of receiving your instructions, and I am most thankful for your cooperation in this trying situation.

The feeling in Local Union 542 toward 66 is at fever pitch and rightfully so, as their men are crossing our picket lines and working, while prospective members on application to the number of approximately 30 are respecting our lines and picketing. This is creating a terrific

situation. Some of the 66 men have returned to Pittsburgh and rumor has it, only to be replaced by others from 66 brought in by Harrison.

I have talked to Cuffe, 17 of Buffalo, Wharton, 66 and H. E. Miller all of whom have operations working by Harrison in their districts and all of whom will willingly stop on an International Order. Harrison is in violation of his National Agreement and not Local Union 542 and is openly flouting he has no intentions to operate union on the turnpike unless he has to. Our attorneys have stated on many occasions that such stoppage against the Harrison Company would not be in violation of the Labor Management Relations Act of 1947.

I sincerely appreciate your cooperation in this situation and trust you can see your way clear to go one step further and direct that all Harrison Construction be tied up in the other localities till such time as he complies with existing National Agreement.

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Exhibit P-167-17

[Letter, October 14, 1949, McDonald to Maloney.]

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During the past week, agreements were signed with the Philadelphia Area Contractors' Associations covering building, heavy, pier, dock, road and sewer construction providing a 15¢ per hour increase excepting pumps, compressors, welders and apprentices retroactive to May 1, 1949. This provides a weekly basis wage scale of $2.90 per hour for heavy duty operators on building, heavy, pier and dock with double time for overtime and $2.80 per hour on street and sewer with time and one-half for overtime. Copies were ordered printed in book form for distribution to the membership.

The executive board and regular monthly meetings were interesting and progressive. An unfortunate incident, in the form of a fist fight after the regular meeting between

one of the members and the recording secretary caused considerable commotion.

Underwood and myself and three business agents met with Wharton and Mangold at Harrisburg as explained in my previous report. We were out on the Johnson, Drake and Piper job at Highspire on Monday morning shortly after 5 for the men started to work at 6. About a dozen agreed to respect the picket line and did not report for work. We proceeded to job after job, meeting our different business agents on our travels. In the evening we contacted the men in their trailer camps, and all but a few promised to respect the picket line, but the promises of some were forgotten by morning. Mangold continued along for the second morning and returned to Harrisburg to catch the 11:50 A.M. plane back to Pittsburgh. In the evening beginning at 9:30 we held a "pep" meeting for our strikers to keep their spirits at high level.

Exhibit P-167-18

[Letter, October 21, 1949, McDonald to Maloney.]

A special meeting of the Executive Board of this Local Union was held last Wednesday evening, at which the proposal of the employing contractors operating on the turnpike and an agreement, was offered and accepted. It was further unanimously agreed to continue this fight against the out-of-line contractors to a final determination.

A motion prevailed that a letter conveying the thanks and appreciation for the active support given this Local Union in this fight, be tendered yourself as General President of Our international Union and the business representatives of the various Local Unions participating.

It has been a tough, hard fought and bitter fight while it lasted, and considering the unforeseen and unexpected obstacles that presented themselves right up to the last, everybody on this end is well satisfied with the outcome to date.

I thank you again and appreciate most sincerely your willing cooperation and active support in bringing this situation to a successful conclusion.

Exhibit P-167-19

[Letter, November 3, 1949, McDonald to Maloney.]

The regular Executive Board and Monthly Meetings were held on last Monday and Tuesday evenings, and were orderly and progressive.

This Local Union has affiliated with the National Safety Council and is keenly interested in their proceedings.

This Local Union with the other trades is continuing a militant organization campaign throughout the up-state territory. The trades will remove their men where contractors operate union on building and non-union on road and highway work. Langenfelder and H. J. Williams are on strike and are being picketed, and the Middlecreek Construction Company job on the Shamokin Dam at Sunbury may be down before night.

Matters in general are progressing very favorably.

Exhibit P-167-21

[Telegram, McDonald to Maloney.]

WILLIAM E. MALONEY—
LOWERY HOTEL ST PAUL MINN—

LANGENFELDER WITH TWO SECTIONS OF TURNPIKE PUT ON STRIKE TODAY (STOP) 542 HAS EXECUTIVE BOARD MEETING MONDAY AND OCTOBER REGULAR MEETING TUESDAY STOP RECOMMEND YOU DIRECT UNDERWOOD APPEAR BEFORE YOU OVER WEEKEND AND HEAR HIS SIDE OF HIS STORY STOP YOU MUST BE INTI-

MATELY ACQUAINTED WITH BOTH SIDES OF THIS PICTURE STOP AFTER WE WILL DISCUSS ENTIRE SITUATION TO THE BEST INTEREST OF THE INTERNATIONAL UNION—

JOHN J. MCDONNELL—

Exhibit P-167-23

[Letter, November 11, 1949; McDonald to Maloney.]

The Langenfelder condition on the turnpike has not materially changed. The Laborers have a couple of pickets on the sections in conjunction with our many. The teamster is entirely inactive in any endeavor to organize, and their membership are crossing our picket lines and delivering materials, stone and concrete from fair supply contractors with their membership buttons visible on their caps. The same condition prevails in the area of Local Union 37 where Langenfelder's jobs are down. The teamster has delegated jurisdiction over the turnpike to their Reading Local Union but still there is no evidence of activity to organize. I see no reason why we should tolerate this condition, but by the same token I am anxious to avoid International complications by organizing these Euclid Operators, which might later be of embarrassment to yourself.

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We have had a separate meeting of our branch membership. They were given every opportunity to discuss their problems and their remarks were generally understood.

The Local Union continues its normal progress and our program of the future is very bright.

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Exhibit P-167-25

[Letter, December 2, 1949, McDonald to Maloney.]

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During the past week agreement was reached and executed by this Local Union with the Allied Construction In-

dustries at Wilmington, Delaware to cover building, heavy and highway construction throughout the state. The Philadelphia Chapter of the Associated General Contractors have contended that they do not negotiate for Delaware, making a separate agreement necessary. The new agreement is identical, with the same wage rates and conditions prevailing throughout the Philadelphia Area extended to Delaware. Harold Hoffman, Secretary of the Philadelphia Chapter of the Associated General Contractors is no longer connected with their group, effective as of December 1.

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Exhibit P-167-27

[Letter, December 9, 1949, McDonald to Maloney.]

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The monthly Executive Board and Regular Meetings were held during the past week and the Local Union will again conduct its election by referendum vote and for a four (4) year term. The usual crop of prospectives are attempting to make noise, but I look forward to no serious opposition.

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Exhibit P-167-28

[Letter, December 16, 1949, McDonald to Maloney.]

During the week the representatives of the three active trades on the Turnpike met at the Essex Hotel in Philadelphia. Other than the turnpike was discussed, including our settlement with the Inter-County Construction Company and the progress and effect of stoppage at the County Home at York. The Laborers are very bitter over our Inter-County settlement, and are under cover circulating propaganda not helpful to the engineers. The Laborers are finding out, though the hard way, that they are not too progressive and do not belong in the front when they should be in the rear.

Langenfelder is badly hurt on his operations and is staggering along though his progress is negligible. It was agreed that picketing would be continued during the winter if necessary, with reduced forces. Meetings will be held regularly at least once each week with a representative of the trades interested, that all shifting angles might be studied. The teamsters are not participating.

I am enclosing for your information and files two printed copies of our Philadelphia Area wage rates and working rules applicable to all types of construction. Identical conditions prevail throughout the State of Delaware.

McDONALD REPORTS—1950

[The following exhibits (pages 992a to 999a) are reports made by John J. McDonald, 3rd Vice President to Wm. E. Maloney, General President, International Union of Operating Engineers, during 1950.]

Exhibit P-168-2

[Letter, January 13, 1950, McDonald to Maloney.]

The determinations of the Davis-Bacon Section received at this office did not include our current wage rates, and I accompanied Brother Underwood to Washington last Wednesday and met with Assistant Solicitor Kalis. He advised that the new wage rates were accepted and were being dispatched to agency since December 22, 1949.

Matters in general are progressing in orderly fashion in Local Union 542 and I will be interested in seeing the list of those who file their intentions of candidacy in the incoming election.

Exhibit P-168-3

[Letter, January 20, 1950, McDonald to Maloney.]

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The candidates for election have filed their intentions and the opposition to the present administration appears to be insignificant and negligible. Underwood has a former discredited business agent running against him and one other named Miller. The other opposition is meagre. Everythings should be permanently stabilized after this election, considering the four year term of office.

During the past week the representatives of the interested trades working on the turnpike met in this office, and decided to retain a skeleton crew of pickets for the winter, maintaining the full complement on the Langenfelder Sections, which are regarded as most important.

A meeting of the branch membership was held during the week, with everything in order.

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Exhibit P-168-4

[Letter, February 10, 1950, McDonald to Maloney.]

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The monthly Executive Board and regular meetings were held on last Monday and Tuesday evenings and were peaceful and constructive. The declarations of intentions of the prospective candidates were read off at the regular meeting and the opposition is negligible.

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Exhibit P-168-7

[Letter, March 3, 1950, McDonald to Maloney.]

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Berlante is doing a good sized road job at Media and the engineers are the only craft working union on the operation. This is disturbing the Building Trades Council in their efforts to help the laborers, but they are making little progress.

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This Local Union is looking forward to a most prosperous spring with certain types of operators already being in demand.

Exhibit P-168-8

[Letter, March 13, 1950, McDonald to Maloney.]

The Executive Board of Local Union 542 met on last Monday, and the regular March meeting was held on the following evening. I attended both, which were well conducted, orderly and progressive. The minutes of the Miami General Executive Board meeting were read and unanimously approved. Underwood's opposition for re-election as President and Business Manager is practically eliminated with the announced withdrawal of candidate Colella.

I have carefully studied the contents of your letter of the first to Business Manager Underwood and I can assure you that no efforts are being spared to organize the highway and other work throughout the territorial jurisdiction of the Local Union. I would appreciate the opportunity of sitting in with you in the early future to discuss general conditions prevailing throughout.

Exhibit P-168-9

[Letter, March 17, 1950, McDonald to Maloney.]

The Wage Scale Committee met Thursday evening in discussion of proposed working agreements with the Philadelphia Area Employing Contractors Associations. Several security, sick benefit and pension plans were discussed, more so than wage increases, and considerable progress was made.

Our work program is generally progressing, and our unemployed are disappearing daily.

Exhibit P-168-17

[Letter, April 21, 1950, McDonald to Maloney.]

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The Philadelphia Area Contractors' Association have offered a 10¢ per hour general increase effective April 17th to be converted to a Welfare Fund, subject to acceptance by a special called membership meeting to be held at Turner's Hall in Philadelphia on next Wednesday evening. This will provide the equivalent of $3.00 per hour on a weekly basis for heavy equipment operators on building, heavy and pier and dock construction and $2.90 per hour on street and sewer work. The Delaware Agreement will follow the same pattern.

The engineers were returned to work in the Scranton Area last Wednesday morning with the acceptance of contractors' offer of a 15¢ per hour increase, which provides 5¢ per hour to the hourly rate and 10¢ per hour to the Philadelphia Welfare Fund. This will provide the equivalent of $2.90 per hour on a weekly basis for heavy equipment operators on building and heavy construction, thereby narrowing the margin of differential to 10¢ per hour in the Scranton-Wilkes Barre eleven (11) county area. The area road building contractors have agreed to a 10¢ per hour contribution to the Welfare Plan, leaving arbitration of permanent wage rates open for further discussions. The signed agreement is effective as of April 19th and covers the following eleven (11) counties: Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne and Wyoming.

While this Local Union's Welfare Plan is not perfected, basically it will provide payment of $5000.00 for natural or acidental death, coverage of $40.00 per week for 26 weeks sickness and accident, surgery and hospitalization including maternity.

After a lengthy session, agreement was reached late Friday with the Building Construction Employers Association of Harrisburg, composing the same provisions on

building and heavy construction as prevails in the eleven (11) county Scranton area agreement and including a $2.50 per hour top rate on a weekly basis Monday to Saturday for road and highway work. Agreement is presently being drafted and will be signed, sealed and delivered by May 1st. This agreement covers a fourteen (14) county area as follows: Tioga, Lycoming, Union, Montour, Northumberland, Snyder, Juniata, Perry, Dauphin, Lebanon, Schuylkill, Cumberland, Adams and York.

Every square foot of the territorial jurisdiction of Local Union 542 is presently covered by agreements with accredited area Employers' Associations. This local union is making outstanding progress and today is stronger than at any time in its history. The membership as of April 1st was close to 2700 and should pass the 3000 membership mark before the first of the year.

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The 542 membership generally are working throughout and conditions in the area are most prosperous.

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Exhibit P-168-19

[Letter, May 5, 1950, McDonald to Maloney.]

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The monthly Executive Board and regular May meetings were held on last Monday and Tuesday evenings. Both were progressive and constructive. Last meeting was nomination night and but one member, a candidate for two offices, auditor and trustee, remained. Since, he has declined so Local Union 542 will have an unopposed election. This will be for a four year term, and Business Manager Underwood will appoint the business agents.

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Exhibit P-168-24

[Letter, June 9, 1950, McDonald to Maloney.]

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The monthly Executive Board and regular June meetings were held on last Monday and Tuesday evenings and

were both interestnig and progressive. The Executive Board recommended and the regular meeting approved of a general work stoppage unless interest and activity was exhibited by the Contractors in the joint formation of a trusteeship for our Welfare Plan in accordance with signed agreement. This had immediate effect and joint meeting has been assured for the incoming week. The trustees approved for Local Union 542 are Brothers Underwood, Mogan and Howlett.

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Our supply of operators is about dried up, and we will be hungry for crane, shovel, dozer and pan operators from now in. Matters in general are very satisfactory.

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Exhibit P-168-27

[Letter, July 14, 1950, McDonald to Maloney.]

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The Executive Board and regular July monthly meetings of Local Union 542 were held on last Monday and Tuesday evenings in the City of Philadelphia. The Executive Board recommended and the regular meeting concurred in the expenditure of an additional $15,000.00 for the carrying on of their continued extensive organizing campaign.

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The membership continues to improve, agreements with individual contractors are progressing and matters in general are favorable.

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Exhibit P-168-32

[Letter, September 1, 1950, McDonald to Maloney.]

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The regular monthly Executive Board meeting of the Local Union was held Thursday evening and the regular monthly meeting is scheduled for next Tuesday.

Matters in general are progressing favorably with employment at an all time high.

Exhibit P-168-33

[Letter, September 8, 1950, McDonald to Maloney.]

The records of Local Union 542 disclose that they have in 1950 individual and association signed contracts covering 465 employing contractors, against agreements covering but 208 in the year 1948. A revised list of Employing Area Contractors will be forwarded to your office for publication, with the perfection of the Welfare Plan.

Exhibit P-168-34

[Letter, September 18, 1950, McDonald to Maloney.]

The Building Trades Council are sending a committee to Houston in an endeavor to gain support in their fight against the Fish Engineering Company at Exeter, by stopping the Mainline Pipeline contractors tying into the booster station. We have maintained such stoppage would be in violation of National agreements.

Exhibit P-168-35

[Letter, October 6, 1950, McDonald to Maloney.]

The regular Executive Board and October monthly meetings were held in Philadelphia on last Monday and Tuesday Evenings. The regular meeting was well attended and some restlessness was exhibited, caused by the delay in the perfection of the Welfare Plan.

Our supply of competent operators is presently exhausted, and the winding up of a job is welcomed. The DeFelice Company anticipated putting on a second shift on their turnpike operation, which could not be provided.

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Exhibit P 168-41

[Letter, December 1, 1950, McDonald to Maloney.]

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Underwood and myself held a lengthy session with Vice President Waldron and Bud Lavin, Chairman of the Laborers' District Council, in discussion of the Lock Joint and many other similar past situations, at the Bellevue Stratford Hotel. They are so much in need of support, but still persist in claiming the operation of power driven equipment on construction work. They also make admission to having in their membership stationary engineers organized in industrial plants. While the meeting promoted a better intimate and personal feeling, their promises can only be determined by their actions of the future. They certainly have given Local Union 542 a hard time, which cannot too readily be forgiven.

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The Philadelphia Building Trades Council have an agreement with the Home Builders of which Local Union 542 is not part thereto, and under which the laborers have been happy in operating the building hoists at their rates of wages. This has been protested over the past three years, and I have discussed this matter with you and held meetings with the laborer in a vain attempt to cause their withdrawal.

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McDONALD REPORTS—1951

[The following exhibits (pages 999a to 1009a) are reports made by John J. McDonald, 3rd Vice President, to

Wm. E. Maloney, General President, International Union of Operating Engineers, during 1951.]

Exhibit P-169-4

[Letter, February 16, 1951, McDonald to Maloney.]

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The local Building Trades Council have notified the successful bidders on the U. S. Steel Project at Morrisville that it is their intention to select a liaison officer at contractors' expense, who will take care of their labor requirements including the dispatching of engineers. This could lead to any number of unforeseen difficulties and will not be tolerated by Local Union 542.

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Exhibit P-169-5

[Letter, February 23, 1951, McDonald to Maloney.]

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Agreement has been reached with Project Superintendent Murphy as Morrisville that all project requirements effecting the engineers will be disposed of directly by our representatives. Such understanding will eliminate the threat of a Building Trades Council liaison officer interfering with our dealings with the performing contractors.

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Exhibit P-169-6

[Letter March 5, 1951, McDonald to Maloney.]

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The groundbreaking ceremonies on the U. S. Steel Project at Morrisville took place last Thursday with our dear brothers performing like actors. The identical attiture of government at Washington was demonstrated here. Admission to the ceremonies was by invitation, with par-

ticular instruction to all police officers on roads approaching, that labor representatives particularly, were to be denied admission. When this job is in full operation, and if they operate on a three shift basis, an average of 1000 members of our organization will be employed. The Teamsters and Laborers have made their peace during the past week, with the full cooperation of the Engineers.

Agreements covering the Philadelphia area and Delaware expire May 1, and all Employers' Associations and individual signatory contractors have been notified that the Local Union desires to negotiate for changes in agreement.

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Exhibit P-169-8

[Letter, March 23, 1951, McDonald to Maloney.]

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During the past week the possibilities of a signed agreement covering road building in the 29 Eastern counties outside the Philadelphia Area were resurrected, by resumption of negotiations with the Pennsylvania Constructors Association at a meeting held at the Harrisburger Hotel last Tuesday. A Committee of ten represented the contractors, while 20 represented the crafts including several from the Western end. The usual discussions in contract negotiations took up the entire day.

The position of Local Union 542 remains unchanged and Underwood and myself refused to consider coupling heavy with highway construction nor would we accept the Western agreement as a pattern or basis for out negotiations.

Mr. Halloran as Chairman, with his committee in accord, agreed to continue discussions with the Engineers, and recognize the distinction between heavy and highway as applicable to our craft. This local union enjoys contractural relations with more than 540 operating associa-

tion and individual contractors in accordance with the records of our Welfare Plan, a large part of whom are heavy operators and no other settlement could be made without sacrificing many of our well earned benefits and conditions. Acceptance of the 10¢ per hour contribution to our Welfare Plan is included in the contractors offer in their proposal of agreement. Heavy construction as it would apply to road work, exempting steel super-structure and pile driving connected therewith, will be acceptable as a basis, in our highway negotiations for agreement. All heavy construction operations now in process of performance throughout the territory are strictly union for the Engineers and in conformance with our heavy agreements.

Meetings for discussions of contracts have been arranged for next Monday with the Teamsters, and next Friday forenoon and afternoon with the Laborers, Carpenters and Cement Masons, each meeting separately. In view of our approaching Philadelphia Area Negotiations, no immediate definite date of meeting was set by our choice, as our agreement will be separate and different from the others. The contractors were very definite that should agreement be arrived at with their association it would be binding on those members who desire to participate, and not on their members in their entirety.

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In glancing over the accountants quarterly report it is encouraging to note that the death benefit fund of Local Union 542 has a reserve of $58,000, with all claims paid, earned over a period of less than three years. Beneficiaries receive a $500.00 benefit upon proof of death irregardless of length of membership.

The Morrisville Project is keeping everybody on their toes with all contractors satisfied with their service. Their demands will be greater as the project advances.

Matters in general are progressing favorably.

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Exhibit P-169-12

[Letter, May 7, 1951, McDonald to Maloney.]

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The Philadelphia Contractors Associations made application for an injunction to restrain Local Union No. 542 from participating in a work stoppage May 1, and appeared before the Honorable Justices Eugene V. Allesandroni and Frank Smith in Common Pleas Court last Monday morning. The court refused to grant the injunction and permitted a continuance of the application, both sides agreeing to maintain a status quo position.

A motion prevailed at the special called meeting held at Turner's Arena on the previous Thursday evening that the membership be privileged to seek employment with contractors paying twenty-five cents per hour more than the wage rates contained in contract expiring April 30. This precipitated a wholesale abandoning of jobs where contracts were not in effect May 1.

The contractors again appealed to the court, claiming a violation by the union of the agreed-upon status quo relationship and a hearing was held before both Justices in Chambers, on last Tuesday. The court respected the statement of the union that the men were not ordered out on strike and issued no order in the case, and the application was set down on the court calender for hearing for Thursday.

Meantime, the office had been kept open from 7 A.M. to 9 P.M. to answer inquiries from the membership and for the convenience of employers desirous of signing agreements. All National Agreements were respected throughout by the membership. Sixty-five individual agreements have been effected and all but one of the contractors performing on the big U. S. Steel project at Morrisville readily agreed to the terms and conditions contained in the new agreement.

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Exhibit P-169-13

[Letter, May 18, 1951, McDonald to Maloney.]

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As previously reported a preliminary hearing was held before Judges Smith and Alessandroni on May 3rd and 4th in Common Pleas Court Number 1, and on May 15th the Court filed its opinion, and made a preliminary finding that there was a valid contract, and an Order was entered which was amended on May 16. I am enclosing a copy of this order for your files and information.

A special meeting of the Executive Board was held last Tuesday evening and of the membership at Turners Hall last Thursday evening. More than 1000 members were present.

An appeal has been entered by Abraham E. Freedman new counsel for Local Union 542 before the Pennsylvania Supreme Court. Freedman has superseded Robert G. Kelly who offered his resignation and which was unanimously accepted. The signing by Kelly of an unauthorized and unprivileged addendum to our working agreement and tieing it in with our Welfare Plan, is the foundation of the contractors' contention.

The Building Trades Council were cooperative as usual by notifying the Contractors' Associations and the Newspapers that ours was an unauthorized work stoppage while we were still in Court, and in plenty of time to influence the Judges' decision.

The special meeting voted to respect and honor the decision of the Court, and the membership agreed to return to work for contractors, members of the respective associations.

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Exhibit P-169-14

[Letter, June 4, 1951, McDonald to Maloney.]

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Local Union 542 has withdrawn from the Philadelphia Building Trades Council and they have suspended and un-

seated our three delegates and ordered their trial before our local union for their claimed refraction of the council's rules. The situation is troublesome enough with the contractors associations and their lawyers, aided and assisted by court judges, without being pestered and annoyed by contemptible council actions.

Our supply of engineers is practically exhausted. Many other sizable projects are in the making with early ground breaking anticipated.

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Exhibit P-169-17

[Letter, June 11, 1951, McDonald to Maloney.]

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The Executive Board and regular June Meetings were held in the City of Philadelphia on last Monday and Tuesday evenings. Both were interesting and progressive.

The applications of more than twenty (20) A and B Branch members were accepted for parent body membership, which is more than would be accepted in five (5) years under the past administration. The candidate for trustee accepted his nomination, and we will now proceed with the referendum election. Preparations for a long and determined militant fight with the area contractors' associations and appeals to higher tribunals against the unjust judicial decisions have ben perfected. Actions on our part before the N. L. R. B. and in the Federal Court against the decision of the Local Court in issuing an injunction in a labor dispute involving Interstate Commerce and where government projects are involved, are now in preparation by our attorneys. The fight is really on and the ultimate outcome must be successful. The meeting was very well attended even by Jasper White, for the first time since his removal.

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The U. S. Steel Project at Morrisville, presently employs 468 members of our organization, with work possi-

bilities for 175 more by July 1. All are receiving the new Philadelphia building rates, excepting 5 who are employed by Arthur McKee, who is hiding behind his National Agreement.

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The United Engineers and Constructors have started a 27 million dollars power house project at Phoenixville, with a similar operation to be started at Scranton with Ebasco the probable prime contractor, and the Corps of Engineers of the War Department are opening bids Friday for a 70 million dollars project at Tobyhanna, which will give Local Union 542 a rather full schedule. The Tobyhanna Project is in the Wilkes Barre Area, and we look forward to an exodus by a sizable number of the dear brothers from the Morrisville Project for employment in their home region.

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All business agents are very active and our source of supply of competent operators is exhausted.

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Exhibit P-169-18

[Letter, June 16, 1951, McDonald to Maloney.]

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In accordance with agreed upon arrangement with Assistant Solicitor Thomas J. Kalis of the Davis-Bacon Section, an investigator from his office was assigned to conduct a survey throughout the Philadelphia five counties area, and arrived here last Monday Morning. He spent three (3) days in the area leaving late Wednesday Evening. He was assisted and accompanied each day by a different business representative which facilitated the progress of his survey. He also visited the Associated General Contractors, acquainted them with his mission and requested any information that they desired to offer. An accepted favorable report will recognize our new wage rates

on building, heavy and highway work being performed by Government Agency throughout the area and should do much in breaking the jam with our local contractors' associations.

The General Rigging Contractors' Association have served notice of withdrawal of membership with the A. G. C. and have signed agreement embracing the new wage rates with Local Union 542. The Pier and Dockbuilders Association has previously taken similar action. Individual contractors continue to sign separately, but the three (3) remaining associations continue adamant.

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Exhibit P-169-21

[Letter, July 3, 1951, McDonald to Maloney.]

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Talked with A. Bernard Hirsch, Secretary and Attorney for the Pennsylvania Excavators Association, and he appears sick with the local area situation. His association too will probably withdraw from the local A. G. C. Chapter.

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Exhibit P-169-24

[Letter, July 19, 1951, Maloney to Underwood.]

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Your letter of June 26 received, regarding the question between Local No. 542 and the Associated Pennsylvania Constructors of Eastern Pennsylvania.

Your explanation of that situation is very thorough and very understandable, and I am very much in sympathy with your stand on this question as it would be foolish, in my opinion, to make an agreement with somebody who wouldn't live up to it after you made it. I know this is in very capable hands and I am depending on you to carry it out as you think best and I want to express my perfect satisfaction with the way you handled it.

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Exhibit P-169-29

[Letter, August 31, 1951, McDonald to Maloney.]

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A jurisdictional dispute with the Carpenters bordered on a work stoppage on the Preload Company's job being performed for the Chester Water Authority on their reservior construction, where their members tried to push the engineers off the hoists who were lifting lumber. It appears their agent called our members off their machines for what appeared to be a normal talk, and on their return to their hoists, carpenters were operating. Engineers operating on other machines on the project threatened to walk off, leaving the contractors an innocent victim of circumstances. To avoid further difficulty the contractors tied up the hoists.

Was in Washington Tuesday and Wednesday with President Underwood on our Wage Stabilization Case and talked with several members of the Board. We appreciate your personal cooperation and support in promoting the approval of our negotiated wage rates.

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Exhibit P-169-30

[Letter, October 8, 1951, McDonald to Maloney.]

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Work is very plentiful throughout the area and qualified operators are not available. The Steel Project at Morrisville is presently employing close to 900 men.

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Exhibit P-169-31

[Letter, October 16, 1951, McDonald to Maloney.]

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A meeting was held at the Building Trades Council at which Local Union 542 was invited to reaffiliate. Acceptance was made contingent on their offering of a proper

and satisfactory letter admitting their improper allegations and actions that were so detrimental to our State Court Cases. They are most anxious now for the affiliation of the Engineer because Levitt has started his 16,000 homes project at Morrisville and has openly announced an open-shop policy. Their information is that the Engineers and Teamsters were the only trades recognized on their several Long Island, New York operations.

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Exhibit P-169-32

[Letter, October 23, 1951, McDonald to Maloney.]

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This local union is making a constant and steady progress though meeting a continuous rough and hard opposition which is responsible for its militancy, though creating a steady hectic condition. The membership is progressively increasing on a stable and solid foundation and I was pleasantly satisfied with last month's per-capita statement.

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McDONALD REPORTS—1952

The following exhibits (pages 1009a to 1018a) are reports from John J. McDonald, 3rd Vice-President to Wm. E. Maloney, General President, International Union of Operating Engineers.

Exhibit P-170-2

[Letter, February 22, 1952, McDonald to Maloney.]

* * * * * * * * *

Matters in general are progressing favorably, with hundreds of members from neighboring Local Unions working in this area. Many from New York are favorably employed throughout. Our labor supply is practically exhausted with a bright building program pictured.

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Exhibit P-170-3

[Letter, March 7, 1952, McDonald to Maloney.]

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A meeting has been arranged with Levitt by the Philadelphia Building Trades Council for next Thursday, which the engineer will attend. Levitt has already agreed to recognize the engineer and the teamster, but we have accepted invitation to attend meeting and lend moral support.

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Judge Clary of Federal District Court has assigned Doctor George Taylor to act as a moderator in the negotiations for new contract with the area associations. Three meetings have been held and no progress accomplished. Contractors' demands include vacating the Welfare Fund, elimination of master mechanics, compressor and pump operators and oilers and many other aimless and antagonistic concessions. They are provoking and continuing an unnecessary and unpleasant situation. This Local Union with nobody unemployed and several hundreds working on permits in the area is in a perfect position to cope with any situation.

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Exhibit P-170-4

[Letter, March 14, 1952, McDonald to Maloney.]

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A meeting was held on last Monday evening, together with Doctor Taylor, in an endeavor to bring both parties together on contract negotiations, but to no avail. The contractors appear satisfied to drift along, but May 1st is not too far away, with time out for conventions.

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Exhibit P-170-6

[Letter, May 5, 1952, McDonald to Maloney.]

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A special meeting of the membership of Local Union 542 was held in the auditorium of Town Hall on last Tues-

day evening with well over 1000 members in attendance. The injunction issued by the the Common Pleas Court respecting the unauthorized signing of an addendum, by our attorney Robert G. Kelly, extending our working agreement with the General Building Contractors' Association, the Contractors' Association of Philadelphia and the Pennsylvania Excavators' Association expired May 1, 1952.

The independent contractors, and including the pier and dockbuilding contractors affiliates of the Associated General Contractors, employing more than 70% of our membership throughout the area have paid the 25¢ increase May 1, 1951 and are rapidly signing the new agreement providing for a 15¢ per hour increase across the board May 1, 1952 with changes in working conditions included. The association contractors are offering 40¢ per hour to the operators and 30¢ per hour to the oilers as of May 1, 1952 with no retroactive pay and at the same time demanding a take of 2½ cents per hour out of each 10¢ per hour contributed to the Welfare Plan.

Men are being removed from jobs by the Business Representatives under the instructions of the Business Manager as authorized by the membership at the special meeting, and our progress is very definite. Copies of contractors' circular letters distributed to our membership are enclosed for your information. They have been ineffective. The steel mill at Morrisville where 1000 of our membership are employed is operating as usual, their employers agreeing to the increase retroactive to May 1, 1952, if approved by the Construction Industry Stabilization Commission or succeeding authorized governmental agency. The project has since been shut down by Ironworkers in jurisdictional dispute.

Meanwhile the Warner Company have signed satisfactory agreements for our membership employed at their Philadelphia and Wilmington operations, as has the Liberty Company for their Philadelphia Yard and Delaware River Dredging operations. The Harrisburg Employers Association has agreed to the 40¢ per hour across the board in-

crease for Building and Heavy Construction retroactive to May 1, as has the Lehigh Vally Association for Northampton, Lehigh, Berks, and Lancaster Counties, and the Allied Construction Industries for the State of Delaware, embracing a 15¢ per hour increase across the board to the petitioned Philadelphia area wage rates. Delaware is now closed and sealed, while the adjoining Philadelphia area associations' contractors are still floundering around, following their diseased leadership.

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Exhibit P-170-7

[Letter, June 2, 1952, McDonald to Maloney.]

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American Bridge complied last week, leaving the Steel Plant at Morrisville now 100% signed to contracts and stipulations by all operating contractors performing.

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The position maintained by the contractors in opposition to approval of dockbuilding wage rates entered in joint petition before the Construction Industry Stabilization Committee portrays their hopelessness and desperation. Their instrument exhibits ignorance and falsification throughout, together with being ridiculous and assinine, and is evidence sufficient of their consistent position and attitude since I have been in Philadelphia.

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Exhibit P-170-8

[Letter, June 10, 1952, McDonald to Maloney.]

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The Executive Board and regular June Monthly Meetings were held at the Broadwood Hotel on last Monday and Tuesday evenings. The regular meeting was well attended with more than eight hundred members being present.

Approved additional benefits, under the present Welfare Plan, were announced to the meeting. They include: $40.00 per week to all participants, payment immediately to those injured at work until Workmen's Compensation becomes effective, payments for the difference to a maximum of $40. per week where compensation rates are lower, and increases of 20% on all present surgical benefits' schedules. Eligibility requirements, presently set at 800 hours per year, are reduced to 600 at age 55 and further reduced to 400 at age 60 and over.

The Trustees are authorized to conduct a survey to provide an adequate pension plan and unemployment compensation benefits.

The trust agreement further provides penalties for delayed filing of regular reports and for deliberate and extended failure to comply.

A recommendation of the Executive Board was unanimously adopted providing for a $20.00 assessment per month on all engineers employed; and apprentices performing as engineers, and oilers and firemen, $10.00 per month for a period of three months. The funds so provided will accrue to a permanent defense fund.

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The Philadelphia Building Trades Council voted unanimously to suport our strike.

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Independent and Association contractors continue to sign agreements daily.

Little or no effort on the part of the contractors is being exerted to effect a settlement.

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Exhibit P-170-9

[Letter, June 20, 1952, McDonald to Maloney.]

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Contractors continue to sign up individually each day. Arthur Johnson Company added their name to the list during the present week.

A letter has been circulated to our membership by mail over the printed name of James Baronett, a former business agent, now mentally deficient and demented, advising return to work and enclosing post cards for an election. He has no access to our address files and it is a sad portrayal of the school boy tactics resorted to in this serious situation.

No separate or collective meetings with the Associated Contractors are being held.

Meanwhile, picketing continues generally, and the position of the Union is constantiy improving as the days roll by. Though our pickets are being substantially paid, they are getting as scarce as operators.

Exhibit P-170-10

[Letter, July 7, 1952, McDonald to Maloney.]

Several meetings have been held over the past two weeks, including the regular July monthly meeting at the Broadwood Hotel. A meeting with the Contractors' Negotiating Committee was held at the Ritz Carlton Hotel in contract negotiations, with the same result. Discussed the progress of the situation with you at Washington on last Wednesday evening.

Meanwhile the strike is continuing progressively with our picket lines well established and our pickets active and determined. Independent and association member contractors are individually signing daily, and our position is constantly and materially improving.

Exhibit P-170-11

[Letter, July 14, 1952, McDonald to Maloney.]

Our battle is continuing in some places very aggres-

sively, with both sides sparring for advantageous position. Rumors of all types are flying thick and fast.

The contractors knew before last Sunday that Underwood and myself met with you at Washington on Wednesday Evening. Halloran announced to the contractors at a meeting last Tuesday Evening at Beck's Restaurant on the Boulevard, that the International Union had four investigators checking conditions in the Philadelphia Area, and pleaded with them to hold the line for 48 hours longer. From our information received, this meeting was turbulent and stormy, with several contractors insisting on settlement.

The members of the Executive Board of the Philadelphia Building Trades Council met with the employing contractors at the Warwick Hotel on last Thursday Evening. The outcome of the meeting was a newspaper release by the Pennsylvania Excavators and the Contractors Association of Philadelphia, that they were shutting down all heavy and highway area operations effective July 14. The effect of their statement is senseless and meaningless, as these operations have been shut down for the past two months. The General Building Contractors did not participate in the statement.

Individual contractors continue to sign agreements and our people are very optimistic. Despite the strike, all business representatives report much activity in their areas and need competent operators and mechanics.

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Exhibit P-170-12

[Letter, July 21, 1952, McDonald to Maloney.]

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Matters in general followed the usual pattern during the past week, with additional contractors signing individual contracts and the associations maintaining their position.

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Exhibit P-170-13

[Letter, July 28, 1952, McDonald to Maloney.]

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During the past week discussions were resumed in contract negotiations with the Philadelphia Area Association Contractors' Groups at the Broadwood Hotel on Monday, Wednesday and Friday. All Business Agents and the Vice President of the Local Union attended the meetings with Underwood. William E. Carter was accompanied by John Lawless, Secretary, and Business Agents William Duffy and John Carter of Local Union 825 and another not known to me during the sessions.

Underwood explains to me that actually nothing was accomplished at the meetings, that an understanding on the 40¢ per hour increase which is contained in signed agreements with all other association contractors and independents throughout the jurisdiction was not extended as an offer. The employment of master mechanics and members on compressors, welders and pumps is still opposed by Halloran. It was also offered and then withdrawn, that the 1949 agreement be used as a basis, attaching a rider incorporating the agreed upon changes in agreements signed with the area associated and independent contractors. This was a face saving gesture, appeared unnecessary due to protracted loss of time in checking and rechecking, but was withdrawn before it could be accepted.

Buckley agreed that with legal approval, the funds of the old Welfare Fund would be transferred to the new. Halloran disagreed and called his committee together and then announced that the old Fund be reestablished and merged with the present, that they could maintain direction. Their trustees withheld approval of deserving and legitimate welfare and insurance payments due our membership for 18 months, and they care for no return to a renewal of the practice. The membership of the other seven area associations and independents have accepted the Trust Agreement and have participated in the election of the

Employer Trustees. Apparently nothing was permanently satisfied at the meetings.

Underwood advises that at the Friday meeting Carter announced before all in attendance that he was empowered to sign an agreement by the International Union, and that he would sign his own agreement. This statement was challenged by Underwood who demanded written evidence of his authority before the Contractors.

A special meeting of the Executive Board of the Local Union was held at the Broadwood Hotel on last Wednesday at 8:30, at which Underwood brought the Board up to date, and announced Carter had been assigned as an observer. I made a brief statement and told the meeting that we had met with you in Washington, that you had a personal interest in the progress of the contract negotiations and favored improved conditions in agreements. I explained that you had the highest regard for Local Union 542 and President Underwood, that you were being pressured from all sides in the situation and that you were anxious to see the strike come to an end.

Talked with Underwood in company with Business Agents Leone and Pantaleo Saturday afternoon and he advised of a meeting with you over the weekend to discuss the situation.

I anticipate your meeting will clarify the misunderstandings.

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Exhibit P 170-14

[Letter, August 7, 1952, McDonald to Corson.]

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This letter is intended to bring about a termination of the work stoppage presently existing in the construction industry insofar as it concerns the operating engineers in this area.

My investigation into this matter reveals that the Contractors who are members of your Association are com-

pletely confused and uninformed about what has been taking place in the way of settlement negotiations.

The information received by your members from your negotiating committee is to the effect that it is impossible to do business with Mr. Underwood and that he will not honor an agreement once it is arrived at.

I wish to state to you, without reservation, that this information is absolutely false and it apparently was submitted to your members in bad faith for the purpose of preventing any contract from being entered into between the parties.

As the representative of the International Union in this area; I have followed this matter closely and carefully. From my own personal observation, I can state that Mr. Underwood has given unsparingly of his time and has exerted every effort to settle this dispute in the utmost good faith. What I have learned from the Contractors, who are members of your Association, indicates that they have not been given the correct information either about Mr. Underwood's actions, or about the suggestions which he has made in attempting to settle this dispute.

Because of the extraordinary importance of this matter to you and to the individual Contractors who are members of your Association, I strongly recommend that your Board of Directors arrange to meet at the earliest possible moment with Mr. Underwood and his Committee and you can then determine for yourselves whether the information you have received is correct.

It may be of interest to you to know that Mr. Underwood has negotiated and consummated collective bargaining agreements with seven Associations throughout the jurisdiction of our Local Union without any work stoppage and in addition, has negotiated contracts with the Warner Company, Liberty Corporation, and the Negotiating Committee for Independent Contractors representing 160 Contractors in the Philadelphia area. The total number of Contractors bound by the contracts referred to well exceeds

500. The wage increases in the areas outside Philadelphia have now been approved by the Construction Industry Stabilization Commission and all these contractors are proceeding with their construction without any interruption in work.

It may be that your present representatives have failed to inform you of the true state of affairs, and if this is so it is extremely important that you take immediate steps to ascertain the true situation. It seems to me your own welfare demands that you find out for yourselves what has been taking place and the best way to find out is to meet face to face with Mr. Underwood and his Committee and determine what can actually be accomplished in the way of a settlement. I should think that we are all adult enough to put aside petty grievances and fears and meet this situation squarely.

Should you desire it I would be pleased to sit in at such a conference between your Board of Directors and Mr. Underwood and his Committee and lend my good offices in attempting to work out a solution to this controversy.

If you feel that I can be of any service in this matter, please feel free to call me at the Broadwood Hotel, Philadelphia, Telephone No. RIttenhouse 6-6800.

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Exhibit P-171

[Telegram]

JOHN FAGNANI

5113 THOMPSON ST PHILA

BY ORDERS OF BUILDING TRADES COUNCIL TO LOCALS 542A, 542B, 542C ORDERING UNION TO RESTORE MEN TO WORK MONDAY MORNING MAY 6TH. YOUR JOB IS AVAILABLE TO YOU.

BUCKLEY AND CO INC

Exhibit P-183A

MINUTES OF THE MEETING OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 542, 542A and 542B HELD ON JUNE 23, 1952 AT BRITH ACHIM HALL, 1035 SPRUCE STREET, PHILADELPHIA AT 8 P. M.

This meeting was held for the purpose of informing our membership of the latest developments in connection with our strike against the Contractor Associations.

In addition to the officers of our Local Union, there were also in attendance a large number of officers and delegates representing twenty-one Maritime Unions affiliated with the Maritime Trades Department including Stephen Cardullo, President, Local Maritime Trades Department; Milton Weil, Commercial Telegraphers Union; Captain Cohen, Masters, Mates and Pilots; Joseph Trainer and Richard Askew, International Longshoremens' Association.

President Underwood announced the purpose of the meeting and gave a lengthy account of various incidents having a bearing on the current strike situation which had occurred during the past two weeks. It was explained that the Contractor Associations in their frantic efforts to obtain relief in the present situation, had contrived to use the names of James Baronett and Jasper White. Both Brothers White and Baronett, under the most peculiar circumstances, apparently alligned themselves with the Contractors and evidently, willingly allowed their names to be used by them for the purpose of breaking our strike. Significantly, neither Brothers White nor Baronett were present at this meeting to avail themselves of the opportunity to justify their actions to the membership.

Delegates from the various Maritime Trades Union then came to the microphone and pledged their full and unqualified support to the Operating Engineers.

Several members took the floor and expressed their opinions concerning the current strike including Brother

Anthony Volpe, who charged that our Local Union had breeched its agreement with the Contractor Associations. He further charged that this had occurred year after year, even though Brother Volpe had only been a member of our Local Union for a period of approximately 16 months.

Following the charges made by Brother Volpe, motion was made by Brother Lavery and seconded by Brother Pacey, that Brothers White, Baronett and Volpe be summoned to appear before the Executive Board and that charges be filed against them. Motion carried unanimously.

Motion was made and seconded that Brother Volpe be asked to surrender his membership book to the Union on the basis that his conduct was disgraceful. Motion carried unanimously.

Motion was made by Brother Howlett, seconded by Brother Acchione that the engineers continue the present strike until all demands are satisfied. Motion carried unanimously.

Third International Vice President, John J. McDonald, addressed the membership and pledged the full support of the International Union to our current strike. He stated that the objectives currently sought by our Local Union had been for some time advocated and encouraged by the General Officers of the International Union of Operating Engineers.

Suggestion was made by Brother Deni that all notices received by our members from the Contractor Associations be sent into the Local Union's office. President Underwood also urged that this procedure be followed.

Announcements were made by Business Agents Leone, Smith and Pantaleo regarding the points at which pickets were to report the following morning.

There being no further business, motion made and carried to adjourn the meeting. Meeting adjourned at 9:30 P. M.

/s/ MAURICE F. RUDDEN
Recording Secretary pro-tem

Exhibit P-185A

MINUTES OF THE REGULAR MEETING OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 542 HELD ON TUESDAY EVENING, JULY 1, 1952 IN THE BROADWOOD HOTEL, BROAD AND WOOD STREETS, PHILADELPHIA, PA.

The meeting was called to order at 8:23 P. M. by President Underwood.

All officers were present with the exception of Brothers Weidman and Rudden, Brother Lavery was appointed Recording Secretary pro tem. Also present at this meeting was International Vice President, John J. McDonald.

* * * * * * * *

Business Agents Reports

Brother Smith reported on conditions in his territory and stated that a number of Association Contractors from the five county area are on strike in the Lehigh Valley District. He also reported on Association Contractors who had signed agreements with our Union. Among the jobs reported by Brother Smith were the Tri-County, Frazier-Davis, Ralph Cornell, Consolidated Engineers, Gentry Pipe Line, Dravo Corporation, Mike Hospador and Hawthorne.

Brother Leone reported at length on the strike situation in his area and gave a detailed account of both the difficulties involved and of the success being experienced by our Union during the dispute against the Association Contractors. He related the details of certain incidents that had occurred on the Glasgow and the Airport job, including the arrest and trial of some of our members. He appealed to all members who had time available to come out and assist on the picket line.

Brother Pantaleo reported on the strike situation in his area and referred to the Morrissey job and the Glasgow job and stated that Morrissey had attempted to begin opera-

tions but was unsuccessful. He also described the meeting which he attended at the Building Trades Council, when certain of their members voted to withdraw their support of the Engineers following the receipt by them of a letter from Harry Taylor of the General Building Contractors Association. Brother Pantaleo also explained the difficulties encountered in attempting to arrange for satisfactory shifting of men from the night-shift to the day-shift at the Steel Plant.

President Underwood reminded the membership of the support being given our Union by the Maritime Trades Department and explained how they kept in constant touch with our Union. He explained also that the withdrawal of support by the Building Trades Council was meaningless inasmuch as they had never supported us in the past.

A report was given of the meeting held with the Contractors on June 30, 1952 when the Contractors simply sat at the table and refused to discuss the terms of a new contract. The complete failure by the Contractors to start a so-called "back to work movement" was brought to the attention of the membership.

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Exhibit P-186

INTERNATIONAL UNION OF OPERATING ENGINEERS

13 Colony Court, Summit, New Jersey
Local Union No. 825 & 825A, Newark, New Jersey

June 23, 1952

International Union of Operating Engineers,
Mr. William E. Maloney, General President,
1003 K. Street, N.W.,
Washington, D. C.

PERSONAL
In re: Philadelphia L. 542.

Dear Sir and Brother:

In accordance with my conversation with you at the General Executive Board Meeting at Boston recently refer-

ence to conditions in the above area at the present time. If you will recollect I told you I would at least see some of the Contractors who do work in New Jersey whose headquarters are at Philadelphia and are involved in the present strike by Local Union 542 and get their views.

On Thursday last, I met G. J. Lauter of the General Building Contractors Asociation, Harry L. Halloran of the Contractors Association, and John Buckley of the Pennsylvania Excavators Association. Prior to that date, I had talked with John Morrissy of the John D. Morrissy Company of Philadelphia, Joseph Larkins of the Union Paving Company of Philadelphia, Frank Canuso of the Canuso Contracting Company and Mr. Lewis of the Counties Construction Company, most of whom do quite a bit of construction work here in New Jersey and all from Philadelphia.

From these gentlemen I learned the history of the dispute from its inception up to the present time. It appears from them that the Agreement which they contend is legal and has been sustained by the courts was entered into October 7th. 1949 and an Addendum thereto dated April 1st. 1950 governing the provisions of a Welfare Fund was added, duly signed by both parties thereto.

Mr. Kelly, attorney at that time for the Union stating that Local Union 542 was only looking for a Welfare Fund of 10¢ per hour, all other wages and conditions to remain as heretofore.

Some time later this statement was refuted by the Union stating that Mr. Kelly was not authorized to continue the old rates and condition for another year, namely to 1951. However, nothing much was done about it by Local Union 542 other than to deny the Agreement was still in full force and effect. This condition continued on for some time further with strikes here and there until May of this year. When a strike was declared against all members of the three Associations and is now seven weeks old.

Prior to this strike several meetings were held with

the committees of the three Employers' Associations, but all propositions were turned down either by Committee of Local Union 542 or the Committee from the Employers' Association. I might add here, that Mr. Kelly, the Attorney does not represent Local Union 542 and has not done so for some time, but he is the administrator of the old Welfare Fund, which is now held in escrow, a new fund having been started since May last.

The Employers Committee prior to April 30th. 1952 offered a new offer to Local Union 542 of an increase of 30¢ to 40¢ per hour, together with 10¢ per hour Welfare Fund. This was rejected by the Local Union 542 Committee and counter proposals were submitted by them. A copy of which I am forwarding to you. These were drawn by an Attorney named "Friedland" from Philadelphia, who now represents Local Union 542.

What your re-action to these proposals will be I don't know, but I have not seen the like of them before. However, it would appear from the Employers that I have talked with, that they are at their wits end to get this matter cleared up and would welcome any action on the part of anyone that can do so for them. As it now stands, all jobs of the organized contractor are practically at a stand still, only the small jobs of the independent contractor are running at all.

Personally, I don't think either committee is going to get anywhere and at the present time a great number of members are on the street in fact, Local Union 542 has adopted a Resolution to remove all outside Union members through out their jurisdiction in order to provide work for their own members. It would seem to me that any settlement that is brought about is going to be done by yourself as at the present time it is not a very healthy picture and looks as if it is going from bad to worse.

In fact; I have just heard over the telephone that Jasper White who is still a member of Local Union 542 has established himself over there and is recruiting members to man jobs that is now on strike. This came from Roy Underwood himself.

I am enclosing two copies of Agreements:

#1. The Agreement submitted to the Employers' Association by Local Union 542.

#2. Copy of old Agreement which the Employer contend expired May 1st. 1952 on the front page of this Agreement is the offer from the Employer for April 1952 to 1953. They are self explanatory.

I trust this information I am sending you will be treated as confidential and will be of assistance to you in forming your opinion of this matter and enable you to bring about some solution.

I hope you have fully recovered from your illness and are feeling better than when I last saw you. If there is any way in which I might be of assistance please feel free to contact me at any time.

With kindest personal regards, I am

Fraternally yours,

WILLIAM E. CARTER
President,
Local Union 825-825A.
International Union of
Operating Engineers.

Must tell you I met the Hill Dredging Company of Atlantic City and I think I can organize them. I am meeting the LaPorte Co., next week. Everything is going along fine here.

My address as of date and until September 10th, will be Box 407, Lake Mohawk, New Jersey, telephone Lake Mohawk 2391. Mrs. Carter and the girls join with me in sending best regards to Mrs. Maloney.

Exhibit P-187

[2670] MR. FREEDMAN: P-187 is the handwritten minutes of the special Executive Board meeting on July 22, [2671] 1952.

Attached to those minutes is another set of handwritten minutes dated at the top July 23, and they appear to be the minutes of the negotiating committees which took place on that date.

By MR. FREEDMAN:

Q. Mr. Underwood, I show you documents P-187 and P-188 and I ask you whether you can identify them. A. P-187 is the minutes of an Executive Board meeting, a special Executive Board meeting of the union, held on July 22, 1952, signed by H. W. Lavery.

Q. Do you recognize the handwriting? A. Yes, sir.

Q. And whose handwriting is it? A. Mr. Lavery's handwriting.

Q. Is the entire set of minutes in Mr. Lavery's handwriting? A. Yes, sir.

Q. You are talking now about P-187? A. That's right, sir.

Q. What about 188? A. 188 is dated July 23 and are the minutes of a meeting of the negotiating committees of the union and the employers held on that date.

[2671a] Q. Whose handwriting is that? A. That is in the handwriting of Mr. Lavery also.

Q. Is it signed by him? A. Yes, sir, it is.

[2672] Q. Now, will you please read first the minutes of the Special Executive Board and then follow right through with the minutes of the meeting of the Negotiating Committees included in both exhibits? A. The minutes of the Special Executive Board—

Q. You are now reading from Exhibit P-187? A. P-187, yes, sir.

Q. When you get to P-188, will you so indicate for the record, please? A. Yes, sir.

The minutes of the Special Executive Board meeting read as follows:

"Broadwood Hotel. Forest Room. Presided over by Pres. Roy J. Underwood. Board members present were: Vice-President C. Denoncour. W. Pacey. R. Walsh. J. McCormick. V. Brightbill. P. Pantaleo. H. Dawson. N. Unruh. J. Leone. J. Devlin. C. Acchione. E. Lewis. M. Howlett. H. Lavery. H. Dawson.

"Explanation by President Underwood of meeting held Broadwood Hotel, Monday, July 21, '52, in Room C-4. The President and Business Manager and agents Smith, Pantaleo, Leone, Brightbill, [2673] Lavery were present as were International representative Carter, and his Secretary. All details of this meeting with Carter & Hallerhan of the Associations was explained by President Underwood to all the above named Executive Board members at the July 23rd meeting.

"After much discussion by most members of the Board, concerning the details of our Negotiating Committee meeting with the Negotiating Committee of the Contractors Association.

"A motion was made by J. Leone & 2nd by C. Acchione that the Union continue their present demands.—Motion carried unanimous.

"International Vice-President J. J. McDonald was present at start of meeting, but he left before the meeting convened. All Board Members left the meeting hall before the Negotiating Committee for the associations arrived excepting Vice-President C. Denoncour, and the following agents, Leone, Dawson, Pantaleo, Brightbill, Lavery.

"Meeting adjourned.

"(Signed) H. W. Lavery."

That is the end of P-187.

Exhibit P-188

[2674] The next is P-188, and are the minutes of the meeting between the negotiating committees of the employers and the union, dated July 23rd. It reads as follows:

"Those present at the meeting of Negotiating Committees were Duffy, Lawless, W. Carter, R. Underwood, V. Brightbill, H. Dawson, Jerry Leone, H. Lavery, C. Denoncour, H. Halloran, J. Glasgow, J. Lauder, J. Buckley.—Carter suggests Underwood act as Chairman. Carter represent General President.—Has other instructions.—Underwood explains we are committee to negotiate for Local. You refer to demands last submitted. I—Carter by that you mean demands as I read them here.—Under—Rider provides—"

Q. What does that "under" refer to? What does the "under" refer to? A. Underwood.

Q. To Underwood. A. (Reading): "Rider provides rates paid in Jersey be paid here.

"Halloran: Understands meeting was to consider original [2675] demands made by association and by local. February 25—letter to Taylor. New demands. —That is not our understanding by Underwood. We are submitting demands as approved by the Local.

"Halloran: My understanding we were to start out with February 25 demands by Taylor.

"Carter: These other demands came about since then.

"Under," meaning "Underwood: February 28th demands were offered providing there be no work stoppage.

"Halloran: There is no attempt to start off fresh.

"Carter: I don't care, we are here to settle this thing. Half of all is window-dressing.

"Throw the whole damn thing out.

"Underwood: We made offer April 28. We are

here to talk about the demands approved by the Members.

"Halloran: Previous meeting ended with this note, [2676] additional demands & Parity with Jersey.

"Effort to work something out. Listed changes in contract. Prepared to start from beginning.

"Suggest both start off with February demands.

"Underwood: You asked for 2½ cents back.

"Carter: How much differential in rates, and demands.

"Underwood: Filed new demands, after others were turned down.—5% increase.

"July 1st authorized to demand Jersey rates.

"Carter: You mean 5% over rates now paid.

"Carter: The original demands would amount to 56 cents increase. What I'm talking about how much increase has been approved.

"25 & 15 this year. That's 40.

[2677] "I don't think you'll get approval.

"Under," meaning "Underwood: The opinions should come from the employers. Dr. Taylor tried to effect settlement. No great differential between demands rejected and present demands.

"Halloran: May 1, 1951. We came here to discuss original demands.

"Independent agreement, additional demands by 542. We made additional demands. Requested Union drop any changes in contract.

"Underwood: We are here to talk about them. Are you only talking for the record. I don't know how we are going to reach any agreement.

"We don't want to waste time. We want to discuss these.

"Halloran: We are not agreeable to pay April 30, 1952. We don't intend. We will not agree to something here we won in a lawsuit.

"Underwood: [2678] We say the rates at that time were arrived at by survey of Government. Prevailing rate 25 cents higher than being paid by As-

sociations. Unfair competition. Men understood they would be reimbursed if they went to work under terms of injunction. We don't believe our International Union would uphold this issue.

"Halloran: 25 building increase—24 highway increase. In order to meet approval we would have to leave out oilers.

"Davis-Bacon only for the purpose of advertising for bids. Their figures have no bearing on our Association.

"Rates for 5 County only.

"Underwood: Union can't accept.

"Halloran: Court said we have contract.

"Carter: Did court say you have contract?

"Halloran: Yes.

"Underwood: [2679] I know what the status is.

"Halloran: All the verdicts said we have contract.

"Underwood: Validity of contract is still to be determined.

"Underwood: Union feels we will use all legal means to get the men their prevailing rates.

"Halloran. Was the practice to get independent contracts.

"Under," meaning "Underwood: Nothing illegal about bargaining with wharf & dock builders. We can't agree to go backward. Davis-Bacon has tremendous effect on our Union. By surveys made. Men are entitled to receive back pay.

"You do not want to discuss the demands."

"Hallen" evidently refers to Halloran.

"Halloran: April 28—Can you show me where our [2680] offer was out of line: —30 cents.

"Underwood: Wharf & Dock Builders went to Commission for approval.

"Halloran: What we offered would not be a decrease. Based on your contract the other contractors violated the law.

"Carter: That appears to be the stumbling block.

"Under," meaning "Underwood: You don't want to talk about retroactive pay.

"Halloran: We don't feel we will pay it.

"Underwood: Let's talk about the Pension Plan then. We believe our older Members should be taken care with a Plan. Very few employers agreed to allow our old members on compressors, & pumps. The older people"—

Q. Is that "in the industry"? A. Yes. I see now.

"The older people in the industry must be [2681] taken care of. Insist on only 3 compressors to man. Until our Pension Plan is effective, attitude of employers is to eliminate these machines entirely. If you have a solution we would gladly hear it. There is nothing unusual about pensions.

"Carter: How does that work out? I mean by payment.

"Lauder: Dr. Taylor said it would take 4 or 5 years.

"Underwood: Dr. Taylor did not say we cannot start.

"Halloran: We asked the cost.—30 cents per hour. You know the W. S. B[illegible] in caps referring to the Wage Stabilization Board—"would not approve. Is it your suggestion to take 30 cents out of raise of 40 cents.

"W. S. B. differential between Pension & Welfare.

"Underwood: You have little regard for Davis-Bacon, but much regard for—period."

I notice that the two pages marked No. 6—

[2682] Q. I think that the next word is "for," and a dash after that, following "regard." A. Yes. "Much regard for" ends on that page. And at the next page at the top it states 11:45 A. M. Recess—5 Minutes. Then:

"Halloran: Bricklayers Plan was taken from wage increase—15 cents, in lieu of wages.

"Lauder: Well, it's different doing business with an association.

"Carter: We had more trouble with the fellow who used to employ one man. We should be big enough work out some way to employ the older man. We have a rate for compressors. We must have leeway on both sides.

"Underwood: Your rates across the river are much higher for compressors than ours over here. We wish to talk about the problems. What are you willing to do about these people. It is your problem too.

"Halloran: We didn't say give up the jurisdiction.

[2683] "Underwood: You remember what happened after the arbitration. 6—7 compressors.

"Carter: As I understand, one ties into the other.

"Underwood: We have had to ask contractors to employ some of our most hard hit cases.

"Halloran: We are not agreeable to pension plan. In addition, we set up a welfare plan, and it caused us trouble. We dislike a pension plan.

"Underwood: You are not agreeable to make a joint request to the W. S. B.," in caps, meaning the Wage Stabilization Board.

"Halloran: Do you have an extra copy of the letter of April 25th?

"Underwood: No. Only this copy.

"Halloran: The increase in cost of the Pension Plan is one reason.

[2684] "Underwood: You—They manage to work in nearby areas where rates ar much higher than ours, and seem to be making out alright. 50 men—

"Halloran: Is that a figure—50.

"Underwood: Now, let's not get technical. Yes, use that as a figure. For the record. This is as usual. Bringing up, and holding to a figure. Do you want us to bring in 50 men. Old men, or dismembered.

"Halloran: Do you want me to withdraw the exact number.

"Lauder: You should have records to show us how many men.

"Underwood: We can say 300 over 60 years.

"Lauder: Your men in this industry don't work the year round.

"Underwood: [2685] What amount would you say.

"Lauder: I don't know.

"Underwood: Would you say if there were 200 men eligible.

"Halloran: We ought to know about how many people in the old age groups. You said we weren't willing to discuss Pension: We gave our reason for not putting our Pension Plan on top of wage increase.

"Underwood: No one ever heard this brought out in any negotiations before, as to how we can answer such questions, as to how many men need be distributed among derricks, compressors, welders, & pumps.

"Halloran: We would like to know how many of these men there are. So we could lower the number of machines to absorb these men. Half of 350. I think we would be agreeable, providing you wouldn't use—

"Halloran: [2686] We are willing to work something out. We don't want to be in a position to lower the number of machines.

"Underwood: You mean to limit the jobs to a specified number.

"Carter: I believe it can be worked out. So that one man don't have to cover 4 or 6 machines.

"Denoncour."—It looks like "by."

Q. Is that first word "Roy"? A. "Roy," I suppose it is, yes.

"Roy—an instance is the way it was abused in LeMoyne.

"Underwood: If you say there is only so many men can do this work, 'I say 'No.' The contract can specify the number of machines. Been trouble since arbitration ruling.

"Glasgow: Roy, if you can set up something on the compressors, would you still be faced with the Pension Plan.

[2687] "Lauter: Suppose we hold it in abeyance.

"Underwood: Let's talk about it. That's why we are here.

"Lauter: Let's set it aside for now.

"Underwood: Well, we are here to talk about it.

"Carter: One ties in with the other. The Welfare & Pension.

"Underwood: Our Welfare Plan helps some of these people, inasmuch as it lowers the amount of hours for the elderly people. While we are here we would be glad to entertain any proposal.

"Carter: How about you gentlemen having lunch and talking it over.

"Recess, 12:45 A.M."

The next page is headed, "2nd Session, 3:05 P.M."

There follows a list of items:

[2688] "10 cents per hour for oiler."

Next, "will withdraw suit."

Next, "will sit on limitations on compressors."

Next, "Merge Welfare Funds."

Next, "Master Mechanic—7 rigs—revolving rigs.

Next, "Joint Petition for amount going in Pension Fund there. W. S. B.," in caps.

Next, "Embody independent agreement with existing agreement."

Next, "Tide Work—6:00 A.M. to 6:00 P.M., 8 hours straight time. 3-year agreement."

Next, "Retroactive. Let in court.—Arbitrate back pay. —Withdraw both suits—

"Safety code to be submitted to arbitration.

"Recess at 3:25 P.M."

The next page is headed, "Convened at 4:05 P.M.

"Halloran: We were waiting.

"Carter: The master mechanic, when 7 men are employed, is debatable.

[2689] "Halloran: The discussions I had with Mr. Carter were to sound you people out.

"Underwood: Well, tell us what it is. What is your proposal.

"Halloran: 40 per hour building, 30 highway. This is not an offer.

"Carter: 10 cents per hour.

"Limitations on compressors."

"Comp," meaning compressors.

"Merger of funds.

"7 revolving machines—M.M.," meaning master mechanic.

"Tide work.

"Get away from technicalities. Find some basis.

"Halloran: Mr. Carter's suggestions.

"Underwood: Limitations on machines.

[2690] "Carter: Suggested discussions be carried on between me, and committee.

"Funds to merge. No need to negotiate further on this.

"Halloran: I thought we could talk about continuing our Fund, and eventually merge. We're not agreeable to transfer Fund or monies where union named trustees.

"Underwood: Are you charging the Union has named the Trustees, in New Fund.

"Carter: I'm not agreeable to two Funds.

"Halloran: Dividends supposed to be returnable. Question as to eligibility. Don't like fines. Won't accept arbitrary provisions.

"Underwood: Over 450 employers have accepted it.

"Halloran: Independent contractors accept anything. Not agreeable to belong to Fund controlled by Union.

[2691] "Underwood: We had to, after you notified us you would no longer pay into Fund.

"Carter: What is the differential between Funds.

"Buckley: Why bring those things up now. It said on insurance fund. We could not say. Argument between Buckley & Underwood over Trust agreement. Buckley: You were supposed to buy insurance.

"Halloran: It was done on the basis we suggested.

"Underwood: You said an amendment.

"Buckley: Welfare Fund was inaugurated by Associations.

"Carter: You mean the Independent Contractors.

"Buckley: The Trustees were set up by Contractors and the Union.

"They asked us to pay out money from the Fund. If you had to buy insurance from the Fund, [2692] at that late date, it was impractical. Argued for months. Judge Clary told Dr. Taylor to draw agreement to pay money out of Fund.

"Underwood: Let's hear it.

"Halloran: Reading of Trust Agreement—expired.

"Carter: When we set up our Fund, we realized the Independents were not a part of the agreement.

"Halloran: The associations never sent out any correspondence.

"Carter: It's far beyond this Board to decide, that is for the attorneys.

"Halloran: April 28. We agreed to continue the Fund.

"Carter: It's up to the law.

"Underwood: We insist on knowing the terms and conditions of the merger. We agree to a merger. All required [2693] here is to explain the merger.

"Buckley: The employers want the money to go to the employees.

"Underwood: We tried to liberalize it. The Trust Fund.

"Carter: The Trustees have the right to disburse funds.

"Underwood: Our Fund calls for contributions to Broad Street Trust Company.

"Halloran: Agreeable to continue Fund. Also merger of both Funds. Old Umpire to sit on Fund transfer. One Fund, and one agreement. Resume to pay into Old Fund.

"Smith: Write check, transfer to New Fund.

"Under," meaning "Underwood": All required is transfer old to new Fund.

"Halloran: Not adequate safeguards for employer.

[2694] "Underwood: 450 employers agreed to transfer to New Fund.

"Buckley: Is it your thought to purchase insurance.

"Underwood: No. We don't know what the Trustees will agree on.

"Denoncour: These people try to leave you with the impression that they are the only association in the State.

"Carter: I believe the Trust agreement provides for disposal of funds.

"Underwood: Is it agreeable to get a court order.

"Halloran: We will agree to merger. Set up by Federal Court.

"Underwood: All these employers have agreed.

"Dawson: You are in the same position as the [2695] Independent Contractors were last year.

"Carter: Did any other people sign.

"Leone: Buckley, you let on here that you—I asked to put an old man to work.

"Buckley: The Insurance Company disqualified him.

"Lauter: Harry H. has agreed to merge the Funds. Let's have the courts settle it. Halloran has been bargaining in good faith.

"Underwood: Last meeting too, you people would not agree, except to put the men back to work. Then talk about a contract.

"Pete: April 28. Come in. Gave us paper. There it is.

"Underwood: All that is required is transfer funds.

"Halloran: We don't agree to transfer to Fund into which we had no part in framing. We will agree to [2696] submit to Federal Court.

"Underwood: All the signed Contractors have agreed to transfer to New Fund. Let's talk about those who did pay into.

"Halloran: You're asking us to belong to Fund set up by someone else.

"Carter: Master Mechanic, Tide Water, Welfare Fund, all can be taken care of later. Matter for attorneys. Other people's money.

"Fund is dead as door nail. It is a legal point to be decided later.

"Halloran: Would you suggest someone — 'to Carter.'

"Carter: Federal Court should decide.

"Halloran: Not agreeable to transfer into Fund we had no part in framing. Method to be decided by Federal Court.

"Carter: If that stumbling block were removed, and [2697] men working.

"Halloran: Suppose the Umpire said to put it into Old Fund or New Fund, we would abide by Federal Court.

"Underwood: Did you say you would agree to this contract.—Haller—meaning Halloran—"No."

"Halloran: It was Carter's suggestion to us to merge the Fund if both of us would say we agree to merge.

"Underwood: What does it mean. I understand you were going along with this contract.

"Carter: The new agreement should be comparable with existing agreement.

"Halloran: This contract should be put in as a rider to our old contract.

"Carter: These were the major issues.

"Underwood: I thought this meant we could agree on something in contract.

[2698] "Carter: I think I will have to call the General President.

"They appoint a committee & we appoint committee and go see General President.

"Buckley: I won't have the Independent come back & sue. I want to settle this legally.

"Underwood: John, do you mean that is all you want. Let us settle it legally. Are you agreeable to settle it legally.

"Lavery: Who adjourned this meeting?

"Carter: Is there anything further to go into."—

Q. After "Lavery," was there a time? A. Apparently so. I see a time noted.

Q. Is that 5:21 P.M.? A. 5:21 PM.

Q. Go ahead A It continues:

"Carter: Is there anything further to go into? [2699] Get you people to go along and adopt these points We discussed the major points.

"Halloran: The major points to be put into our old contract as a rider. Underwood said How are we going to arrive at anything unless we go over the contract.

"Buckley: Notes all provisions discussed by Carter. Continue Welfare Fund.

"Underwood: Where your old contract conflicts it will have to be adjusted.

"Halloran: February 25. Outline major issues.

"Duffy: Didn't Carter say we cannot upset something already in effect.

"Buckley: You say you have 155 contractors signed.

"Halloran: Does that mean Morrisville too.—Underwood—Yes. Halloran—we don't believe outside contractors have any bearing on this area.

[2700] "Underwood: If there is any conditions, other than this contract, in the letters from Morrisville, I will allow Carter to examine them.

"Let the attorneys say if letter is binding, or not.

"Carter: We sign all Independent Contractors in Jersey. We had to turn down Dredgemen's appeal for Welfare Fund. Question as to how much you get done. Major points all discussed again. This is the basis of our discussions.

"Halloran: Those major items will be agreeable if incorporated in our old contract. We will go this far." Then are listed a number of conditions. One is:

"Oiler same increase as others."

Next, "Agree to accept restriction on compressor."

Next, "Continue Welfare Fund."

Next, "7 rigs—revolving—M. M.," meaning, "Master Mechanic."

[2701] Next, "Court suits—wipe them out."

Next, "Will not agree to Tide Work as is."

Next, "Clause, work directly effected by Tide Water."

"Carter: Who you are working with will decide the Tide Water clause. Take Dock Builder. Don't you believe it unfair not to use rates that apply.

"Halloran: We want that clause undisturbed. We want our contract self-contained.

"Carter: Starting time left discretion of employer. Suppose you have coffer dam job on a sewer. Then the Dock Builders rate will apply. Engineer gets more money with Dock Builders.

"Buckley: Is there a difference in rates.

"Halloran: $3.20 for operators on sewer work, on sewer work. Would get $3.30 with Dock Builder.

"Underwood: How can we give you different rates than Dock Builders.

[2702] "Carter: Who drives sheeting? Halloran —laborers.

"Halloran: If we agree to these items, then, it would be rider to our Old Contract. As far as Tide work, we don't want to disturb. M—M," the master mechanics, "agreed to.

"Carter: What do you think, Roy?

"Underwood: We cannot give you something that we can't give some others. You ask for something to be added.

"Carter: Let's leave it for some future date.—Underwod. Wouldn't it be simple to say, 'Conform to Wharf & Dock Builders on this work.'

"Halloran: We want 3-year contract, to be re-opened for cost of living index, only.

"Agreed on increase of oiler.

"Settlement between you and me on compressors.

"We're not giving away the Tide Water.

"Underwood: The only thing agreed on was bringing the [2703] oiler up 10 cents. There is nothing so far that compares with the existing agreement.

"Glasgow: Let's see if we can get a meeting of minds.

"Carter: Do you have the authority.—Halloran—Oh. Yes we have the authority for all."

In the margin, there are a number of times noted: 6:30 A.M., 6.45 P.M., as it continues down the sheet.

Q. Would you say what is opposite each time number, please? A 6:30 A.M., "Conference between Carter & Halloran."

6:45 P.M., "Conference between Carter & Underwood."

6:45 P.M., "Conference between Glasgow, Halloran, Buckley & Lauter."

7:00 P.M., "Coffee."

7:25 P.M., "Contractors left meeting hall."

And it continues:

"Conference with Business Manager & Agents concerning suggestions by Carter."

This is signed "Harry W. Lavery."

* * * * * * *

Exhibit P-189

By MR. FREEDMAN:

Q. Mr. Underwood, I show you P-189 and ask you whether you can identify it. A. Yes, sir, this is a meeting held on July 25, 1952, of the Negotiating Committees of both the employers and the union.

Q. In whose handwriting is it? A. It is in Mr. Lavery's handwriting.

Q. And is it signed by Mr. Lavery? [2706] A. Yes, sir.

Q. Will you please read it to the Court. A. It is headed July 25, 1952, meeting at Broadwood Hotel, East Harmony Room, Negotiating Committees.

"The following were present. Pres. & Bus. Mgr. R. J. Underwood. A. Smith. P. Pantaleo. J. Leone. H. Dawson. V. Brightbill. Jack Carter. W. Carter. Duffy. Mr. Halloran. Mr. Lauter. Mr. Glasgow. Mr. Buckley. Meeting convened at 10:25 A.M.

"Underwood: Comments on paper of intent drawn up by Carter & Contractors. Everything here worsen's things in existing agreement. We positively can't agree to do anything to disturb the contracts now in effect. The Welfare Plan is working. Not understand we were to disturb it.

"Carter: Established conditions were discussed. The merger was agreed to. The question was who would decide the merger. Agreed to withdraw all suits.

"Conditions and rates not to be varied from. Question whether to withdraw all.

"Underwood: [2707] There are other devia-

tions M. Mechanic." Meaning master mechanic. "Tide Clause. All.

"Carter: Is it the demand of 542 that the funds are to be turned over unconditionally.

"Underwood: Not going to disrupt fund because a small group of employers don't like it.

"Carter: I understand the employer is not going to agree to that—Answer: Halloran: That's right.

"Underwood: If you want to discuss the demands by the Union. O.K.

"Carter: Well, let's see the demands. All these things are out then. We don't want to discuss it then.

"Underwood: Oh, no, I don't see why we shouldn't discuss them. That's why we are here.

"Carter: Of all the discussions I heard here in the past 2 days. Only the contract was offered to the employers.

[2708] "Underwood: It's quite evident you misunderstood the Union's position. At no time have we said, 'This is it.'

"I believe you gentlemen must understand we have Local Autonomy. We have been told by our International Union to get a safety code. If International Union can take position to say our people are not entitled to prevailing rate, then I don't know.

"You must realize you must sit with the elected officers of this Union to negotiate a contract.

"The General President said he would send in an observer. Not to interfere with the Negotiating Committee. We appreciate the efforts of the people sent in to be helpful. You are attempting to go outside to get some other people to pressurize our members into agreeing to take something different than exists in local contracts.

"Carter: Are you finished. Let me make my position clear. No restrictions placed on me. In 2 days I [2709] saw nothing. As far as contract it's beyond me. He didn't tell me not.

"You are not going to get anywhere. Welfare alone. I am authorized to draw contract with employers & 542. As of this morning General President has authorized me to draw up contracts. Welfare, Pension & Courts. My authority this morning is to draw up a contract. 10:30 last night.

"Underwood: May I say now this Local Union will not accept. Under no circumstances can we accept..

"Carter: I'm not a lawyer.

"Underwood: We are here to discuss terms based on demands of Union.

"Carter: Whatever is done must be approved by the General President. It's up to you Roy who sits in.

"Underwood: We have obligation and duty to members.

"Carter: I'm prepared to sit with employers to draw [2710] up this agreement.

"Underwod: If that is plan there is no use of us staying.

"Contractors left at 11:02 A.M.

"Carter: I didn't ask for this job. The G. P."—meaning General President—"called me. Neither side is going to budge.

"Existing conditions has to be adopted. Halloran has to go along. Acrimony. Too much bitterness in it all. My instructions are to draw up an agreement. Go to Court. Fight International. Pressure being brought upon him. Governor. Maurice Tobin. Buildings Trades Department. 150 names. Issue another Charter. Law who goes there.

"Underwood: They went there.

"Pantaleo: We are accused of not talking to them. They sat 45 minutes and never said one word.

"Carter: "Here is your stumbling block. Welfare Plan. [2711] In event of agreement becoming defunct. It provides how to dispose of money. They have that right. The fund exists yet.

"Leone: Do you realize what we are faced with. No one will ever be able to negotiate contract now. International is making mistake.

"Carter: I'm not here to talk to them.

"Brightbill: They will not pay into new fund.

"Carter: They will merge the fund.

"Brightbill: The"

"Duffy: Suppose Bill goes in and gets everything you want.

"Underwood: There's the contract.

"Carter: Jack knows they are not the best people in the world. I know them from New Jersey and they are not [2712] so hot.

"Underwood: Our own International Union is going to interfere now when the association is on the ropes.

If General President tells us we can't negotiate our own contract.

"Carter: I was in hopes that he would call you.

"Not coming to agreement in 3 months.

"Meeting adjourned at 11:15 A.M."

Signed Harry W. Lavery.

(Letter dated July 26, 1952, from William E. Carter to Mr. Arthur Hill, was marked Exhibit P-190 for identification.)

(Letter dated July 26, 1952, from William E. Carter to William E. Maloney, was marked Exhibit P-190A for identification.)

MR. FREEDMAN: P-190 is a letter from William E. Carter to Mr. Arthur Hill, Assistant to the General President, in Washington, dated July 26, 1952, enclosing copy of a letter to Mr. Maloney dated July 26, 1952, which is marked 190A.

P-190 states:

Exhibit P-190A

INTERNATIONAL UNION OF OPERATING ENGINEERS

Box 407, Lake Mohawk, New Jersey

Local Union No. 825 and 825A, Newark, New Jersey

July 26, 1952

Mr. William E. Maloney, General President,
International Union of Operating Engineers,
327 South LaSalle Street, Chicago, Ill.

In re: Local 542, Philadelphia

Dear Sir and Brother:

In accordance with your telephone conversation with me to meet Brother Underwood, Business Manager of Local Union 542, of Philadelphia, and Mr. Holloran of the Contractors Association of Philadelphia, reference to the negotiating of an Agreement. I made arrangements to meet at the Broadwood Hotel, Broad and Wood Streets, Philadelphia, at 10:00 A. M., Monday, July 21st. The meeting was held and Brother Underwood much to my surprise was accompanied by 6 of his Business Representatives.

However, I met with them and went over the matter and told them that I had been assigned by you to observe if the charges made by both sides were true, that neither side would bargain in good faith. I impressed upon Brother Underwood the necessity of doing so in the interests of his membership and also that of the International Union. Along with the great amount of pressure being brought upon you to intercede in these matters by various people, agencies and others. Brother Underwood said that he had always tried to meet and bargain with the Committee from the Association.

I then requested that he meet with Mr. Holloran and myself to see if we could find some common ground to reopen negotiations. This, Brother Underwood refused to do and would only meet Holloran in the presence of his full committee. The meeting was then adjourned until 2:00

P. M. when it was agreed that Mr. Holloran should meet with them.

At 2:00 P. M., Mr. Holloran met with them, and the only thing that I observed was a lot of talk of what had happened in the past, in other words, a re-hash of what had taken place since May 1st, 1951, until May 1st, 1952, when as you know, the strike started. Mr. Holloran said he was prepared to re-open negotiations, but Brother Underwood's stand was that he had 155 signed Agreements, a new Welfare Fund established by the independent contractors, and that if Mr. Holloran desired he could sign the Agreement, merging the old Welfare Fund of his Association, with the new one. But on no account would the present Employer Trustees be disturbed who administered the new Welfare Fund. In fact, this was the only solution to the problem offered by Brother Underwood and to which Mr. Holloran would not agree.

There was much more acrimonious talk and no effort to reconcile anything to bring about a solution to the problem was offered by Underwood.

I then suggested that the meeting be adjourned, it being 5:30 P. M., until Wednesday, July 23rd, at 10:00 A. M., when a committee from the Employers Association meet a committee from Local 542 and make another effort to negotiate an Agreement, this was agreed upon.

On Wednesday, July 23rd, another meeting was held, this time a committee of 4 represented the Employers Association, Mr. Holloran, Mr. John Buckly and Mr. Laidow, the last name may be somewhat incorrect but is obtainable if needed, and a Mr. Glasgow. At this meeting, Brother Underwood was accompanied by his committee of 6 and in addition his entire Executive Board was on hand outside the meeting room.

At the commencement of the meeting, Brother Underwood stated that he had submitted his proposals to the Committee of the Employers and asked what, if any proposals the Employer had to offer which were submitted by Mr. Holloran and were as follows:

#1. An additional 10¢ per hour for the Oiler, making it a 40¢ increase for that classification, making it 40¢ for the Oiler, and 40¢ for the Engineer. The limitations of small machines, I.E. compressors and pumps, etc., to be covered by one man, to be worked out by Mr. Holloran and myself.

#2. Master Mechanic to be employed when 7 revolving machines were operating.

#3. Merger of the Welfare Fund, under certain provisos: (This to be in accordance with the old Trust Fund Agreement with the Employers Association), namely that a court appointee settle the mechanics and details of transfer of funds.

#4. Title Work: on sewer and other work affected by the tides, any eight (8) hours (consecutive) from 6:00 A. M. to 6:00 P. M. at single time rate, before premium time started.

#5. Withdrawal of Court Suits by both sides.

There was a great deal of talk over these proposals, but as a whole rejected. In particular the Welfare Fund for reasons heretofore stated. Again the Agreement as signed by the Independent Contractors was set forth as the only one that could be accepted by the Union. There was more acrimonious talk from both sides, but nothing else was offered by either sides and the meeting was adjourned at 12:30 P. M.

I asked Brother Underwood to have lunch with me, as I desired to talk to him about the matter. This, he refused to do without two of his committee being present. I told him, as far as I was concerned he could bring them all along. However, only two attended.

I had a long talk to him about the seriousness of this situation along the lines of my telephone conversation with you and, also informed him that I was going to talk to the Employer to see if I could do anything in the matter of bringing them together at the afternoon session.

I had a meeting with Mr. Holloran as chairman of the Committee and told him that the basic pattern of the

Independent Contractors' Agreement reference to Wage Rates and Conditions would have to be lived up to as they were established and could not be torn down and requested that he seriously consider this in an effort to bring about harmony. He said he would. He further agreed that in reference to the Welfare Fund; that he would merge the old Fund, with the new Fund only, under the condition of the Trust Fund Agreement, due to legal entanglements that might become involved, but was willing to arbitrate the matter.

Reference to the Court cases on either side, he would agree:—

#1. That his Committee would withdraw their case, providing the Union withdraw their case.

#2. He would agree to arbitrate the matter of either case or:—

#3. He would agree to abide by the decision of the Courts.

In the matter of the pension Fund, this matter would not be decided upon at this time, due to its effect upon wage increases by the W. S. B.

This information was given to the Committee of Local 542 and again, more talk which finished up by the Employer submitting another list of suggestions as a basis for negotiating, which when given to Brother Underwood said he would have to take it back to his Board for consideration. The meeting was adjourned at 7:30 P. M., up to which time, no constructive basis was offered by Local 542 Committee through Underwood other than the presentation of the Agreement for signature again.

It was again agreed to meet Friday morning at 10:00 A. M. On Thursday night I talked with you on the telephone at 10:30 P. M., as a result of your conversation, I attended the meeting and waited for the result of Underwood's report on the action of his Executive Board.

He reported that his Board had turned down the suggestions of the Employers, stating that they had offered nothing that was acceptable to them, other than the 10¢

increase on Oilers. He also went on to great length to inform the Employers Committee, that they had used every outside influence to interfere with the Committee of Local Union 542 to exercise their right as an elected committee representing Local 542 and that further no outside parties whether assigned by our International Union or not, had the right to participate in any negotiations. He further reported that Local Union 542 was autonomous Local Union and had the right to bargain for the membership. Further, that when you spoke to him you had told him that I was not to participate in any discussion relative to any negotiations now:

Up to this time I had not informed a single person that I had that authority, other than as an observer and was not going to "impart" your instructions to me until after I had heard his report this morning, and then only, to him and his committee.

However, since he had gone to such great length to dispute your authority and mine, as representing you I then told him that I had watched these proceedings for two days in which time he had made no effort to bring about a reconciliation and negotiate their differences, and that further, it had been this way for the past 3 months. Further, I had only tried to advise him, to bring about peace, which certainly could be done, if he desired to do so. Further, that contrary to his statement, that, you had vested me with the authority to negotiate an Agreement with the Employer if he failed to do so and I was certainly going to carry out your instructions.

He then disputed your authority to do so, or mine as representing you. I asked him to call you, he refused to do so and, if you wished to issue any instructions to him, it would have to be in writing from you.

I then called you and informed you of the outcome. As a result of my observations, the facts of this matter are as follows:

Brother Underwood does not desire to bring about a settlement, only under his own terms, which in some cases are impossible, and;—

There is too much bitterness between him and the Employers that proper reasoning is out of the question. The Employers Association has not been the best people in the world to get along with in the past, let alone under these circumstances.

An Agreement can be obtained on the basis of the Independent Contractors Agreement:—

The Welfare Fund can be settled by arbitration and also the other questionable matters.

The Court Cases can be disposed of as outlined heretofore.

The Pension Fund is positively out of the question, and above all, they do not want to deal with Underwood at all, if it can be avoided.

He is strictly guided by his attorney and is very legal minded. The situation is bad for both sides. Some of the members are working for the Associated Contractors, in particular the Glasgow Company, despite the strike. I might add, that there would have been much more trouble, were it not for the fact that the Morrisville Steel job takes a vast number of the members.

I have learned this morning that he held his Executive Board Meeting last night (Friday night) and from what I gather from one of the Board members that they will go into court if their rights are interfered with by the International Union and I might add that at the present time, I am not too popular with the officers and Executive Board of Local 542.

However, I thought I would give you a report on the matter to bring you up to date.

If there is anything further that I might be able to do to assist you in any way, please feel free to contact me at any time.

With kindest personal regards, I am

Fraternally yours,

WILLIAM E. CARTER, *President*,
Local Union 825-825A,
International Union of Operating Engineers.

Exhibit P-191A

MINUTES OF THE SPECIAL MEETING OF THE EXECUTIVE BOARD OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 542, 542A, 542B and 542C HELD ON FRIDAY JULY 25, 1952 at 8:30 P.M. IN THE BROADWOOD HOTEL, BROAD AND WOOD STREETS, PHILADELPHIA.

The meeting was called to order at 8:30 P.M. with President R. J. Underwood presiding.

Upon roll call, all members were recorded as being present with the exception of Brothers Walsh and Weidman.

In the absence of Recording Secretary Otto Weidman, Brother H. W. Lavery was appointed Recording Secretary pro tem.

President Underwood announced that the purpose of this meeting was to determine the action to be taken following certain threatening statements made by Carter against our Local Union at a meeting held this date between the Union Representatives and the Contractor Association Representatives.

It was pointed out to the Board that Carter's conduct had now become so obnoxious that President Underwood considered it urgently necessary to bring this fact to the attention of the Executive Board. He informed the Board that Carter, failing in his attempt to force an unsatisfactory contract on our Local Union, had openly stated in the presence of the Contractor Representatives that he was going to write up and sign a contract between our Local Union and the Contractor Associations and that he had been authorized by President Maloney to do so. Carter was advised that under no circumstances would our Local Union accept an agreement which was not negotiated and signed by delegated representatives of the Union and that our Union Representatives doubted very seriously that he had

ever received such authorization from President Maloney. After repeatedly asserting that the had such authorization, our Local Union Representatives left the meeting while Carter remained behind with the Contractors' Representatives.

Following a thorough and detailed discussion concerning this situation, the Board adopted a resolution as follows:

> "No contract between our Local Union and the Contractor Associations shall be acceptable or honored by our Local Union unless such a contract is negotiated and signed by our Local Union Representatives."

The Board also recommended that President Maloney be advised of their dissatisfaction with Carter's presence in this area during our current dispute with the Contractor Associations.

Adjournment

Following a further discussion regarding the general situation the meeting adjourned at 10 P.M.

/s/ HARRY W. LAVERY
Recording Secretary, pro-tem

Exhibit P-192A

MINUTES OF THE REGULAR MEETING OF THE EXECUTIVE BOARD OF THE INTERNATIONAL UNION OPERATING ENGINEERS LOCAL 542, 542A, 542B and 542C HELD ON MONDAY EVENING, AUGUST 4, 1952, IN THE BROADWOOD, HOTEL, PHILADELPHIA

The meeting was called to order at 8:20 P. M. with President R. J. Underwood presiding.

Upon roll call the following members were recorded as being present: Brothers Charles Denoncour, Nathan Unruh, Homer Dawson, Edward Lewis, Peter S. Pantaleo, M. F. Rudden, Michael Howlett, Vernon Brightbill, Wm. Pacey, Colombo Acchione, Robert Walsh, M. F. Mogan, Joseph McCormick, Joseph Ungaro, George Gaull, Sr.,

Joseph Devlin, Jerry Leone and International Vice President, John J. McDonald.

In the absence of Recording Secretary Otto Weidman, Brother H. W. Lavery was appointed Recording Secretary pro tem.

New Business

William Hogan appeared voluntarily before the Board to report on a meeting which he attended, held on Sunday, July 27 at the home of James Baronett, 421 Martin Street, Philadelphia. Brother Hogan reported that approximately 35 people attended this meeting and that Baronett announced the receipt of a Charter from the Confederated Union of America.

He further reported that Brothers Clyde Pickering and P. Bozzelli were extremely active in this movement to disrupt the Local Union while our strike was in progress against the Contractor Associations. He also stated that a petition was circulated among those present which some signed. He was unable to determine whether those present at this meeting were members of Local Union 542, since they were unknown to him.

Following a discussion of this situation, President Underwood advised the Board that charges were being processed against Baronett and others as had been directed.

Brother Michael Howlett suggested that the names of members who had crossed picket lines be posted in the Day Room and in the Union Office.

As the result of a request by Brother Joseph DiGerolamo to be heard by the Board in connection with the fine and suspension previously imposed on Brother DiGerolamo, the Board then heard his plea to have the fine and suspension removed. Since he could offer no valid reason for changing the action of the Board in his case, it was recommended that the fine and suspension previously imposed remain undisturbed.

Brother Paul Thomas who had been notified to appear at this meeting, was then heard by the Board. Brother

Thomas was charged with reporting for employment to John Meehan and Son while a strike was in progress against that Company. He admitted that he had reported to the Yard but only for the purpose of visiting other employees and that he was under doctor's care at the time and denied that he had performed any work. He stated that he was still receiving medical treatment for a serious disability. The Board recommended that this matter be held over pending further investigation.

Communications

Communication from the Harrisburg Building Trades Council concerning the current wage rates was received and filed.

Action on a request from the Salvation Army in the Harrisburg area for a donation was postponed pending an investigation by Brother Brightbill to determine to what extent other Building Trades in the Harrisburg area were complying with this request.

A request was received from the Pennsylvania Association for the Blind for a donation. The Board recommended that our Local Union donate the same amount as was donated last year if such a donation was made.

A card was received from the American Cancer Society acknowledging our Local Union's recent donation.

Letter was received from St. Luke's & Children's Medical Center acknowledging with thanks our Local Union's recent donation.

Report was made by President Underwood regarding his meetings in Chicago on July 27, 28, 29, and 30 with General President Maloney, Wm. Carter and Harry Halloran. He informed the Board that at the end of the final meeting at Chicago on Wednesday, July 30, General President Maloney advised the parties to return to Philadelphia and negotiate a settlement of their differences after expressing the opinion that some agreement must be reached concerning the transfer of the Welfare Fund before any final agreement could be reached.

During the meetings in Chicago, Harry Halloran had insisted on changes, beneficial to the Contractors, in our basic independent agreement. President Underwood reported that upon his return to Philadelphia Thursday, July 31 a call was received from General President Maloney suggesting the terms of a settlement. The terms suggested at that time were:

> "Acceptance by the Contractor Associations of the independent contract as currently in effect and unconditional transfer of the monies in the old Welfare Fund to the new Welfare Fund."

Following this the parties were then to discuss the additional demands of the Union and to consider the arbitration of some of the more difficult issues. This was agreed to and as a result, a meeting was held with the Contractors' Representatives on Friday, August 1 at 3:30 P. M. at the Broadwood Hotel. The Employer Representatives disagreed with this suggestion as a basis for discussion and the meeting lasted only about 20 minutes with the understanding that both parties would talk to President Maloney regarding this situation.

This was discussed with President Maloney over the telephone following this meeting and President Maloney suggested that he again talk to the Contractors' Representatives and call our Union on Saturday, August 2. No further word was received from President Maloney until Monday, August 4, when during a telephone conversation, President Maloney advised President Underwood that the Local Union should accept the proposal which provided for arbitration of certain important items already contained in the independent contract.

President Underwood advised President Maloney that this proposal would be submitted to the Executive Board and the membership of the Local Union but that President Underwood could not recommend his suggestion as a basis for settlement. President Maloney then stated that if the Local Union refused to accept his recommendation, a meet-

ing of the General Executive Board would be called for the purpose of determining what further action should be taken by the International Union. President Maloney requested that he be called on Tuesday, August 5 and advised as to the position of the Union regarding his recommendation.

The recommendation of President Maloney was fully discussed by the Executive Board following which motion was made by Brother Howlett, duly seconded by Brother Acchione that the General President's recommendation for a contract settlement between our Local Union and the Contractor Associations be declined by the membership. Motion was adopted unanimously.

Following a further discussion of this matter, a motion was made by Brother Ungaro seconded by Brother Lewis that in the event any action is taken against our Local Union by the International Union or others, our Counsel be instructed to take such measures as may be necessary to protect the interests of our membership. Motion adopted unanimously.

President Underwood reported that the Secretary to the Board of Trustees of the new Welfare Program had assumed his duties on July 28 and it was expected that payments would be made to eligible employees from the new fund in the very near future.

Brother Denoncour raised a question concerning the present status of Wm. Carter with respect to our current negotiations and was advised by President Underwood that it was most unlikely that Carter would ever again inject himself into the affairs of our Local Union.

Adjournment

There being no further business before the Board for discussion, the meeting adjourned at 10:50 P. M.

s HARRY W. LAVERY
Recording Secretary pro-tem

Exhibit P-193A

MINUTES OF THE REGULAR MEETING OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 542, HELD ON TUESDAY EVENING, AUGUST 5, 1952, IN THE BROADWOOD HOTEL, BROAD AND WOOD STREETS, PHILADELPHIA, PA.

The meeting was called to order at 8:20 P. M. by President Underwood.

All officers were present with the exception of Brother Otto Weidman, who was absent due to an extended illness. Brother Lavery was appointed Recording Secretary, pro tem. Also present were International Vice-President John J. McDonald and Hunter Wharton, representative from the General Office.

Minutes of the Regular Meeting

The minutes of the regular meeting held on July 1, 1952 were read and approved.

Minutes of the Special Executive Board Meeting Held July 23, 1952

The minutes of the special Executive Board meeting held on July 23, 1952 were read. Motion made by Brother Acchione, seconded by Brother Gaull, Jr. that the minutes be approved. Motion adopted unanimously.

Minutes of the Special Executive Board Meeting Held July 25, 1952

The minutes of the special Executive Board meeting held to July 25, 1952 were read. Motion made by Brother Acchione, seconded by Brother Smith that the minutes be approved. Motion adopted unanimously.

Minutes of the Regular Executive Board Meeting

The minutes of the regular Executive Board meeting held August 4, 1952 were read. Motion made by Brother Smith, seconded by Brother Toppi that the minutes be approved. Motion adopted unanimously.

Communications and General Office Receipts

Communications and General Office Receipts for Local 542, 542A, 542B and 542C were approved as read, and upon motion carried, ordered received and filed:

Per Capita Tax	June 30, 1952
Local 542	$ 1551.50
542-A	828.85
542-B	1997.20
542-C	105.70

Hunter Wharton was then introduced by President Underwood who stated that Mr. Wharton's purpose in attending this meeting was not entirely clear, and suggested that Mr. Wharton advise the membership of the purpose of his visit.

Mr. Wharton spoke very briefly and said that he had been sent into Philadelphia to attend this meeting under instructions of General President Maloney and assured the membership that the General President was interested in the welfare of our members.

Report of President Underwood

Before President Underwood's report, motion was made that all other reports be dispensed with at this meeting to receive a full report of the Business Manager. Motion carried unanimously.

President Underwood then gave a lengthy talk reviewing in detail many of the highlights of the history of our bargaining with the Contractor Associations since 1948, and pointed out that our Local Union had successfully negotiated agreements with seven Contractor Associations throughout our jurisdiction, exclusive of the three Contractor Associations of Philadelphia, and in addition, had negotiated contracts with the Negotiating Committee for Independent Contractors, to which approximately 160 Employers had become parties, the Warner Company and the Liberty Corporation. All this had been done, he said, without any stoppage of work and without any impairment of relations existing between our Local Union and its various groups of Employers.

He stated that the 25¢ increase received from Employers employing a vast majority of our members for the period from May 1, 1951 to April 30, 1952, was approved as the prevailing rate by the Wage Determination Branch of the United States Department of Labor after exhaustive surveys, and that certain of our members were required to work for Contractor Association members at a rate of 25¢ per hour less than the prevailing rate only because of the Court Order issued after a preliminary hearing.

President Underwood cited the difficulties encountered in the Union Trustees attempts to effect payment of Welfare benefits to our members and explained that it was necessary after an 18 month delay, to appeal to the United States District Court for the appointment of an umpire to effect these payments. He also explained that the Associations, with whom we have our current dispute, had resisted every attempt of the Local Union to bargain in good faith in an effort to reach a settlement of our differences and that Mr. Halloran, representing the Associations, had chosen to explore every other conceivable method to arrive at a contract rather than bargain with the authorized representatives of the Union. Mr. Halloran has insisted, he said, that the Union accept the terms of a contract dictated by him rather than those resulting from collective bargaining, and has made contacts with many influential people including General President Maloney in an effort to force the Union to accept his terms and stated that the rumor is widespread that Halloran will not bargain with the Union's present negotiating committee.

He told the members about Wm. Carter's visit to Philadelphia and that he purported to represent General President Maloney as an observer in this situation but who, instead, exhibited extreme bias in favor of the Employers. President Underwood advised the membership of Mr. Carter's insistence that a meeting be held in a hotel room between Halloran, Carter, and himself and of Mr. Carter's extreme irritation over his refusal to comply with that demand and his insistence that the Union's negotiating com-

mittee be present at our meetings. He told of Carter's statement made in the presence of the Employers' representatives, that he had been authorized by General President Maloney to draw up and sign a contract for our Local Union.

An account was given of the meetings at Chicago in which Carter, General President Maloney, Halloran, and he participated, which resulted in General President Maloney advising the interested parties to return to Philadelphia and negotiate their new agreement.

He reported on the meeting held on Friday, August 1 to consider suggestions of President Maloney. This meeting was adjourned, he explained, when a disagreement developed as to the details of General President Maloney's suggestions for settlement. He went on to explain that due to this misunderstanding and to avoid any future misunderstanding, a telegram was dispatched to General President Maloney requesting specific terms embodied in his suggestions, since he could not conscientiously recommend to the membership, the terms outlined by the Contractors' representatives as purportedly coming from General President Maloney. President Underwood stated that he had the utmost respect for the General President and found it difficult to believe that such recommendations had been made by him. A telegram, in reply to our telegram, was received Tuesday, August 5, which was read and explained to the membership.

He also advised the membership of a telegram received from the Building Trades Council containing a threat to remove members of all crafts from work where engineers were employed.

He also acknowledged the support given our Local Union by members of the Maritime Trades during our current difficulties and contrasted this with the opposition to our Union evidenced by other persons in organizations from whom we would reasonably expect the utmost understanding and assistance.

Third General Vice President McDonald then accepted an invitation to speak to the membership and at the outset of his remarks, told of his close association with President Underwood for over four years and of his confidence in his sincerity and ability. He reviewed the progress of the Union during that period, and stated that President Underwood had devoted exhaustive efforts toward advancing the best interests of the membership of the Local Union and was presently attempting to protect their interests. As a result of this, he said, our territorial jurisdiction is well organized and that in his opinion we had the best collective bargaining agreements in the Eastern United States. He said, however, he had been instructed by General President Maloney to urge acceptance of his proposal outlined in his telegram to our Local Union of August 5, and that he had been advised by the General President of his intention to issue another Charter in this area in the event no settlement was reached between our Union and the three Contractor Associations. He said this contemplated action by the General President was made necessary by the fact that a great many people, including Contractors, had exerted considerable pressure on him to bring about an early settlement of our dispute. He recommended to the membership that they accede to the wishes of the General President and not appear defiant in any manner.

Following the conclusion of his remarks, the members were permitted to question both President Underwood and General Vice President McDonald. Brother Howlett asked General Vice President McDonald to explain which section of the International Constitution was being violated by our Local Union and demanded that he advise as to whether or not we were violating any law. He also observed that, while our Local Union was engaged in a difficult fight to establish working conditions and wages during the past four years, the General President had denied us any assistance. General Vice President McDonald answered Brother Howlett by saying that he could not refer to any specific provi-

sion of the Constitution covering the point raised, but that he was satisfied of the power of the General President to take the threatened action.

Brother Toppi stated that from all appearances some one was trying to make us the victims of the Morrisseys and Buckleys.

Several other members raised objections to attempts to induce our Union to enter into a contract which was unsatisfactory to the membership.

Brother Dominic Deni made a motion, seconded by Brother LeBano, that there be no return to work for members of the Contractor Associations until a satisfactory contract had been negotiated by the representatives of our Local Union. Motion adopted unanimously by a standing vote.

Motion was made by Brother Howlett, seconded by Brother Scherer, that General President Maloney be invited to attend a special meeting of the membership and give his reasons for recommending the settlement contained in his telegram. Motion adopted unanimously by a standing vote.

Motion made by Brother Gaull, Jr., seconded by Brother Smith that the Union continue to submit its original demands to the Employers for negotiation.

Brother McEvoy pointed out that over 500 contractors were in agreement with our Union and under no circumstances could we agree to change any conditions in our basic agreements.

After a further discussion on this question, a vote was taken and motion was adopted unanimously.

Suggestion was made by General Vice President McDonald that a committee meet with General President Maloney for a further discussion of the situation of the problems presented here as a result of his telegram.

Motion was made by Brother Gaull, Jr. that such a committee meet with the General President. During the discussion that developed on this question, it was pointed out by some members that President Underwood had met with General President Maloney for four days in Chicago and

that any further meetings of this nature would only prove futile. A vote was taken and the motion was defeated by a standing vote.

Reports of Business Agents

Brother Bucklin commented on the apparent lack of interest of the membership in reports of Agents who were familiar with the current strike situation, and requested that such reports be made at this meeting.

President Underwood suggested that if there was no objection, only the reports of those agents directly connected with the strike activities would be received. No objection was made and Brother Smith reported as follows:

Nine members of the Philadelphia Contractor Associations were still on strike in the Lehigh Valley area and that the work of all other contractors was progressing normally under agreements with our Local Union.

A report was given on the activities in the Lancaster area in connection with an organizational drive being carried on by all of the trades in that vicinity.

Brother Pantaleo reported on the Morrisville job and stated that he had experienced considerable difficulty in the manning of jobs in his area.

He reported on difficulties with the Durkin Company during attempts to induce this Company to enter into a contract with our Union.

Brother Leone reported on activities in his area in connection with the strike and gave an account of difficulties which arose on some of the jobs.

Steve Cardullo, President of the Maritime Trades Council, reported on the support being given the engineers on their picket lines and reaffirmed the desire of the Maritime Trades to stay with our Union until a satisfactory settlement is reached.

Disbursements—July 1952

I. U. O. E. June per capita tax	4479.25
New car	2154.12
Furniture & Fixtures	2080.55

Welfare—Dues sick members	164.50
Service Withdrawals	144.00
Stewards expenses	124.00
Agents salaries	4800.00
expenses	1360.00
telephones	442.82
auto repairs	1003.18
Good & Welfare—Flowers	40.00
Rent halls	199.25
Meeting expenses	15.00
Donations	185.00
Dodge reports	38.75
Trustee expenses	35.00
Organizational	60.00
R. E. Cooley	3825.00
Defense	23361.26
Office rent	455.00
Office salaries	2358.00
Telephones & telegrams	71.78
Postage	485.19
Welfare expenses	226.70
Insurance	644.50
Social security taxes	73.37
Treasurer's expenses	125.00
Misc. expenses	685.47
Printing & stationery	836.15
Dues	13.50
Recording Secy. salary	30.00
TOTAL EXPENSES	50316.34
Transfer to Death Benefit Fund	2932.00
Witholding tax deducted from employees	995.90
Social Security tax " " "	73.21
Philadelphia tax " " "	50.13
Exchanges	221.05
	54788.61

Disbursements for July, 1952 were read. Motion made by Brother Jaffola, seconded by Brother McEvoy that all disbursements be approved as read. Motion carried.

Adjournment

There being no further business to come before the meeting, meeting adjourned at 11:15 P.M.

s HARRY W. LAVERY
Recording Secretary, pro tem

Exhibit P-62

[708] By MR. FREEDMAN:

Q. Mr. Underwood, I show you the handwritten minutes of the meeting of August 12, 1952, and I ask you to examine them and let me know, first of all, whose handwriting they are, and then will you please read them to the Court. A. This is the handwritten minutes of the Special Executive Board meeting C-A Broadwood Hotel, 8 A.M., August 12, 1952.

Present: Pacey, Brightbill, Devlin, Gaul, Sr., Lewis, Denoncour, Walsh, Ungaro, Leone, Smith, Pantaleo, Unruh, Jr., Lavery, McCormick, Dawson, Acchione, Howlett, Mogan, M. Ruddin.

At this point I would like to point out that all of these names appearing on here were not present. [709] However, there is a check mark over each one indicating the ones who were present.

Q. Will you state which ones, according to the check marks were present, please. A. There were present Pacey, Brightbill, Devlin, Gaul, Sr., Lewis, Walsh, Ungaro, Leone, Smith, Pantaleo, Unruh, Jr., Lavery, McCormick, Dawson, Acchione, and Howlett.

Q. And in whose handwriting is that first page? A. The first page is my handwriting.

Q. Is there any other handwriting? A. Yes, sir, the other pages are in the handwriting of Harry Lavery.

Q. Will you please read what you wrote down there. Why was there any difference? Why did you have to do part of it and Mr. Lavery do part of it? A. I had been

up all night. I went directly to the Broadwood Hotel after the meeting had been called for the following morning, and while I was waiting for the members of the Board to come in, I simply wrote the first page of the minutes to save time, setting forth what was going to be discussed. That was the purpose of the meeting.

(Original handwritten minutes of the Executive Board meeting of August 12, 1952, were marked [710] P-62 for identification.)

By MR. FREEDMAN:

Q. Will you read what you have in your own handwriting and then tell us when you get to Mr. Lavery's please. A. Shall I begin at the beginning again and then go through with it?

Q. Don't repeat that which you have already given us.

A. Very well. After the names, then, we will start:

"Meeting called to order at 8:30 A. M. President Underwood presiding. H. Lavery, Recording Secretary Pro Tem due to illness of O. Weidman.

"President Underwood announced that the purpose of this meeting was to consider the letter received from General President Maloney on August 11, 1952, and bearing the same date, which contained an order directing the membership of our Union to return to all jobs of the 3 contractor associations without a contract. Recent incidents occurring prior to the issuance of this letter by the General President were reviewed briefly by President Underwood following which the letter was read to the Board. The Board then entered into a discussion of its contents."

Is that the end of the first page?

A. That completes what I wrote, yes, sir.

[711] Q. Is all the rest of it in Mr. Lavery's own handwriting? A. Yes, sir, it is.

Q. Can you read it? A. I shall try.

Q. Please proceed. A. It is disconnected sentences. At the top it says "Open Discussion. R.J.U."—

Q. Who is R. J. U.? A. That is me.

"Reading of letter from General President. Explains General President of other International Unions, helping one another.

"Six weeks ago General President insisted on settlement. R.J.U. and J. J. McDonald talked to him for three hours. Story at that time that R.J.U. was called on carpet by Maloney. Explains how J. H. McGrath, J. Marshal, M. Tobin had been used to bring pressure on General President.

"Halloran keeps insisting he can't do business with Roy.

"Contracts approved in outlying areas.

"Halloran and Building Trades Council have met, and came up with scheme to upset our [712] form of operation.

"Burke, Lachlin, Blumberg have advocated many times that they should negotiate our agreements. Also to do away with compressors and welding machines.

"General President has insisted on agreement for less than we now have with Independent Contractors been paid well."

Q. What is that? What are you reading? There is writing on both sides, is there not, Mr. Underwood? A. It doesn't seem to follow, but there is no writing on this side of the sheet.

Q. The last you testified to was independent contractors right down there? A. Yes.

Q. Go ahead. There is nothing on the other side? A. The pages might be misplaced here.

"Howlett—The rank and file of other craft's don't know what our condition is. Distribute pamphlets. Lots of dough to be made on this thing. Pipefitters repudiate their agents on Morrisville job.

"McCormick—boilermakers started.

"Mayor — assistant superintendent shut them down.

[713] : "Howlett—Ironworkers and boilermakers working today.

"McCormick—Papers not giving us fair publicity.

"R.J.U.—The true story will come out now. Federal Court. Many big names mentioned.

"Would like to say this Local is out of control. This cannot be said about us.

"Devlin—Would Media case have anything to do with our case?

"Answer R.J.U.—'No.'

"R.J.U.—13th Amendment does not require such acts from anyone. We didn't believe they would get comfort from General President.

"Ungaro—Can't we get fair explantation from papers.

"Howlett—Are you going to get a restraining order against General President and Building Trades.

"Answer: 'Yes.' You have orders by Local to protect the property of this Local.

"Pete"—

Q. Who is Pete? A. Pete Pantaleo.

[714] "What happens when this petition is signed.

"Underwood—They will not be able to interfere, in contempt of Federal Court.

"Smith—You are using the same action now as they used in local courts.

"Underwood—They will be subpoenaed to oral hearing.

"Underwood—Explains hearing on welfare funds. Remarks made by Jacoby in court.

"Ungaro—Most of our men got laid off, and paid off at steel job. Were other crafts paid off?

"Walsh—Timekeeper said they could get their money at Morrisville Bank.

"Lewis—'Lack of Work' was on all cards yesterday.

"Devlin—Boss said 'We don't want trouble.'

"R.J.U. explains Wharton delivering of letter. How impossible to notify members, and to get court order. Worked all night on Bill of Complaint. Explains conspiracy and damage action against Building Trades Council, Creagan, Burke, McGrath, Marshal.

"It's time to give them a fight.

[715] Authorization to file—August 11, 1952.

"Walsh and Acchione. Motion to proceed with whatever action is necessary.

"Howlett—All we have to do is stick together.

"Walsh—We have a God given right.

"Ungaro—We must prepare, lawfully and physically. International President didn't lift Jersey Charter.

"Howlett—Johnny Coyne, 6,500 by Joe Fay 'I want to live.'

"R.J.U.—Many people now want this Local. They looked down on us 'til now. They all want to come in here now and talk to certain contractors.

"Gaulle, Sr. They must have . . ."

It doesn't seem to follow, but the next page is:

"Pete—All agents yesterday for other crafts said, 'It's not my fault Pete.'

"Dawson—Did Local Unions have chance to vote on this work stoppage?

"R.J.U.—Carpenters representatives pulled men off ore pier.

[716] "Dawson—O'Keefe said 'We are going to work.'

"R.J.U. Building Tradesmen — laborers, fitters and carpenters chased our men off Chester Housing Project. By subcontractors.

"Leone—Our people stayed there all day.

"Howlett—Vote of thanks to business manager and agents for job well done.

"Smith—Members in upstate area have notified contractors of intention to attend next called meeting.

"Motion passed unanimous to proceed with court order.

"R.J.U.—Many softening up offers were made, and so forth.

"Devlin—Glasgow man said, 'One thing about that guy. He won't take.'"

MR. FREEDMAN: Is any part of that in quotation marks?

THE WITNESS: Yes, that is in quotation marks.

"Pete—H. Halloran said 'You are the fellow, Pete.' 'We could get along with you.'

"R.J.U. 'Plan to plant something on me."

[717] "Gaulle, Sr.—'Contractor handed me box of cigars.' 'Whatever was in there I don't know.'

"Acchione—Understand you did something about emergency job—?

"R.J.U. Told Lewis and Barofsky—25 names of eligible contractors to do job. Tried to call Lombardi Sunday. Sent telegram offering to assist in every way possible.

"Gaulle, Sr.—That job was *given* to Lombardi.

"Pete—Editorial in Daily News.

"Leone—Samples of materials at job.

"Ungaro—Sewer 100 years old. Keeps caving in right along.

"J. Devin. Did he—General President give any reason for wanting a settlement for less?

"R.J.U. Answer. 'It's beyond me.' 'I don't know.'

"Ungaro Did Maloney threaten to take charter.

"Answer—R.J.U. Yes.

[718] "Reading of letter from General President.

"Acchione—He still doesn't direct you to settle under present agreement.

"R.J.U. Explains Chicago meeting. Welfare Fund proposals.

"Let's make it short and sweet. Motion that Local

Union decline to comply, to recognize order of General President, by Howlett and Acchione.

"Ungaro I'm in favor of guarding it with shot guns.

"Lewis Is this done to put Local under supervision.

"R.J.U. General President proposed to me in Chicago to put Local under supervision.

"Howlett International will be in in 24 hours to take over.

"Devlin—Can't we get court order.

"R.J.U. We have a right to protect it.

"Motion passed unanimously.

"Adjourned 9:40 A.M.

"Harry W. Lavery."

Q. Do you know what time it started? A. It started out very close to 8:00 A.M.

Exhibit P-62A

MINUTES OF THE SPECIAL MEETING OF THE EXECUTIVE BOARD OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 542, 542A, 542B and 542C HELD ON TUESDAY, AUGUST 12, 1952 at 8 A.M. in the BROADWOOD HOTEL, BROAD AND WOOD STREETS, PHILADELPHIA.

The meeting was called to order at 8 A.M. with President R. J. Underwood presiding.

Upon roll call, the following officers were recorded as being present: Brothers Pacey, Brightbill, Devlin, Gaull, Sr., Lewis, Walsh, Ungaro, Leone, Leone, Smith, Pantaleo, Unruh, Jr., Lavery, McCormick, Dawson, Acchione, Howlett and Rudden.

In the absence of Recording Secretary Otto Weidman, Brother H. W. Lavery was appointed Recording Secretary pro tem.

President Underwood announced that the purpose of this meeting was to consider the letter received from General President Maloney on August 11, 1952 and bearing the same date which contained an order directing the membership of our Union to return to all jobs of the three Contractor Associations without a contract. Recent incidents occurring prior to the issuance of this letter by the General President were reviewed briefly by President Underwood following which the letter was read to the Board. The Board then entered into a discussion of its contents.

During this discussion, it was pointed out by President Underwood that President Maloney had mentioned on a number of occasions that J. Howard McGrath was persistent in his demands that our Local Union adopt the contract suggested by the Employer Associations.

The action of the Philadelphia Building Trades Council and its officers and of Harry Halloran was also thoroughly discussed.

President Underwood pointed out the impossibility of complying with the order contained in President Maloney's letter delivered by Hunter Wharton, even if the Executive Board was agreeable to comply. It was noted that only twenty-four hours were permitted the officers of the Union to call a meeting of the membership to pass on the General President's order.

Following a conclusion by the Board members that they could not recommend to the membership the contract less favorable than the one now existing even though the less favorable contract was advocated by General President Maloney, the Board adopted the following resolution:

> "That the Business Manager proceed forthwith with any and all legal action necessary to restrain anyone from enforcing the less favorable contract on the membership of our Local Union, and that our Local Union decline to comply with the order of General President Malenoy as set forth in his letter of August 11, 1952."

Adjournment

There being no further business, the meeting adjourned at 9:40 A.M.

s HARRY W. LAVERY
Recording Secretary, pro-tem

Exhibit P-194

In the Matter of the Arbitration Between

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL UNIONS 542, 542-A and 542-B

and

GENERAL BUILDING CONTRACTORS ASSOCIATION, CONTRACTORS' ASSOCIATION OF PHILADELPHIA and PENNSYLVANIA EXCAVATORS ASSOCIATION

Excerpts from Arbitration Proceedings

July 30 and 31, 1948, Hotel Barclay, Philadelphia

[Numbers in brackets refer to page numbers of the transcript of the Arbitration Proceedings]

[95] MR. HIRSCH (A. Bernard Hirsch, Esq., Counsel for Pennsylvania Excavators Assn.): There is no argument that the jurisdiction of the Union runs to the operation of the machine. The only question involved is the question of maintenance on the job site. The original agreement as it was agreed in conference was that it shall cover only the operation of the machine. Now Mr. Kelly says he wants the maintenance because they had them before, so we say, put in maintenance on the job site, which we agreed they had—

MR. KELLY: (Robert G. Kelly, Esq., Counsel for Union) I haven't got "maintenance" in here.

MR. HIRSCH: You said "all the work" and the men are afraid you might interpret that to mean maintenance at the shop because some of your men in the past have done it under special arrangements by agreement with the heads of your local who have now been repudiated, and you might

extend that to say that we are not bound by any agreements that he might have made because we repudiated them, and since these men did this work and since the contract reads, "all work heretofore performed by members of the Union" —there is no question that they were members of the Union when they performed it; there is no question that they did the work; and [96] and you might say, a fortiorari, you are entitled to that jurisdiction; and that is what these men are afraid of.

Now, they want a clear statement of principle, and I think they are entitled to that, and if you are going to deal with them with a hand in the glove, I think we ought to know that. If you are going to deal with them with the hand out of the glove—you understand what the situation is; the cards are all on the table; let's definitely state what our positions are.

MR. HALLORAN: (Harry Halloran, Chairman of Board, Contractors Assn. of Phila.) That is going to come up through a lot of these discussions, that some of the articles in our proposal which were different from the written articles in previous agreements are brought about by a new threatened diligence and interpretation of those old articles. By the same token it is a considerable part of the reason for the present discussion. It comes out in this particular clause as well as it will come up later in some of the other clauses. So I don't know how we can keep it out except if we state our position that that is the reason for it, and then you will have to decide how much of it is fear that is well founded and how much is fear that isn't well founded.

We could keep on arguing back and forth on each line on that and we would probably be repeating a lot of what somebody else on the same side has said. [97] But that is the cause of some considerable part of the discussion, the same as in the jurisdiction as to locals, the jurisdiction as to this item we are talking about now, are both affected by some verbal understandings or something else that might

have occurred in the past, which would be wiped out if it has been declared the intention, puts a different face on the same old words.

[153] THE ARBITRATOR (Nathan P. Feinsinger): Wait a minute. By "straight time week" you mean the guaranteed week?

MR. HALLORAN: Yes. It isn't quite right to say a guaranteed work week because it is a guaranteed pay week. They get paid for the time they don't work. So we had even within our own classifications work performed by our kind of contractor—we had as recently as three years ago some of these groups moved over into the guaranteed work or pay week that had previously not been in that, and up until August of 1945 there was nobody on our road construction and outside the city construction that got a guaranteed week except the crane and shovel men. Nor was there [154] the practice of having pump and compressor men brought over there. They weren't even on the job. So there wasn't too much worry about how much money they got or whether they got a guaranteed work week or not.

MR. KELLY: Here is a 1916 agreement. It says, "The engineers will have jurisdiction over mortar mixers, gasoline driven pumps, compressors, concrete mixers, hoisting appliances."

MR. BUCKLEY: (John Buckley, President, Pennsylvania Excavators Assn.) What was the hour week in 1916?

MR. McDONALD: (John McDonald, International Vice President IUOE) About 44 hours.

MR. BUCKLEY: Let him read it.

MR. KELLY: It is 44 in here.

MR. BUCKLEY: Forty-eight, wasn't it?

MR. KELLY: I think about 1836 it was 14 hours.

There are also in these agreements—here is a 1932 agreement. "Engineers shall receive $55.00 per week at fifty hours." Of course, that was the depression year, '32. "Engineers operating air compressors shall receive $50.00

per week at forty hours." In 1932 the differential between a compressor operator and a shovel operator was only $5.00 a week.

MR. HALLORAN: It didn't make any difference when they didn't use the pump men.

MR. BUCKLEY: They didn't use them.

MR. KELLY: I wasn't around in 1932 and I don't know [155] whether they used them or not. But the contract says they are to use them.

MR. SCHWERTNER: (C. H. Schwertner, President, General Bldg. Contractors Assn.) Don't forget, Bob, that as we brought out before, there are things in the book that we just didn't do, that is all.

MR. KELLY: You mean they didn't do them to you?

MR. SCHWERTNER: Well, they didn't do them to a lot of us, and that was one of the troubles, I think. And I agree with you; it is wrong. It is coming back to us now. *We permitted a lot of things to go into those agreements because we were told, "Oh, well, let us write this in but we will never apply it." And that is one of our problems.* (Emphasis supplied)

[201] THE ARBITRATOR: For the sake of clarifying the record, is there anything in Section 3 as proposed that constitutes a material change in your old contract, speaking of the Builders now.

MR. SMITH: (Edward Paul Smith, Esq., Counsel for General Bldg. Contractors Assn.) Yes.

THE ARBITRATOR: Will you speak to that point first.

MR. HOFFMAN: (Harold D. Hoffman, Secretary, General Building Contractors Assn.) The language there has been changed. I can only clarify it this [202] way and you will have to dope it out.

Two years ago when this thing went into effect it was necessary for the Union and ourselves to meet, and we sat down to work out a clarification as to what the provision

in the old agreement meant, which resulted in my issuing a bulletin of three thousand copies to all contractors in the area as to what the darn thing really meant, that it meant this, that where we hired a man—where we hired a man, we will say, on Thursday, when our work week starts; he worked, and we laid him off because of lack of work that night, and we hired him again Tuesday, we owed him for Friday and Monday. Now, we took the position that when we hired John Jones for Thursday's work and laid him off, we had made a contract and we had also terminated it that night, and that when we hired him again for Tuesday, we also made an agreement with him to hire him for that day and we terminated it that night. There were two different contracts made, the intervening time of which he was not covered by any verbal agreement with the employer. He performed no work. And that was very obnoxious to us. In addition to which we paid him a quarter an hour for this broken time, which is not customary in any other industry.

THE ARBITRATOR: That 25 cents premium?

MR. HOFFMAN: Yes, for the broken time.

[203] THE ARBITRATOR: So-called daily rate?

MR. HOFFMAN: Yes. So we have had case after case coming up; the Union has never cooperated with us in the settlement of grievances; they have been settled on the job site in various ways that I won't discuss because it is not a pretty story, and we want this thing out now.

[239] MR. HIRSCH: This is one of those clauses which has crept in, as so many of these clauses have crept in over the years.

[240] MR. KELLY: How do they creep in?

MR. HIRSCH: I am going to tell you how they creep in—in the endeavor of the employers to satisfy an internal problem in the Union. I remember this one very well because this has been in only for two years.

THE ARBITRATOR: Is it in your contract?

MR. HIRSCH: It is in our contract. I will come to it and tell you how—

THE ARBITRATOR: Just so I can follow you, is the provision in your contract, in your old contract, the same as the general contract?

MR. HIRSCH: That is right, with this addition: "When these regulations are apparently inequitable to the members of either party to this agreement, such exceptions shall prior to the starting of work be referred to the business representative of the Union by the affected employer for their determination and mutual agreement."

Now, I will tell you the reason that was put in there and why the whole clause was put in there. Mr. White who was negotiating for the Union came to us and told us just of some situation like this, about some contractors who were not members of any of the Associations—we bargain for the employers and the contract as we negotiate it then becomes the standard pattern for the entire industry, and |241| everybody in the industry who wants to work in the Union has to sign that contract. Now, because that situation became quite prevalent out in the "sticks" with the smaller contractors, the hit or miss boys, he wanted this thing in. Up until that time we had a straight daily or weekly basis at the employer's choice. If a man came to work, he said, "You are working daily", or "You are working weekly", and any time he put him off the daily he could put him on the weekly, that is, if he told him before the job finished; before the first day of the week he could say, "You are working weekly." On the last day of the week he would say to him, "Next week you are going to start on a daily basis." That was always considered okay. We always paid the differential.

But because such a situation might come in where Monday was a holiday, Friday he was knocked off the weekly; Monday he didn't work; Tuesday he worked on a daily; on Wednesday he didn't let him work at all. and then on Thursday put him back on a weekly basis—in order

to get around that situation, this clause was put in to help the Union, and in order that we wouldn't have such a determination as Mr. Halloran was complaining about, that saving clause was put in there, wherever it was a hardship, so that if an employer had a man on a weekly basis and his job was apparently done, and if there were two or three days went past and he wanted to [242] hire him on a daily basis, it could be done on daily basis, in spite of the fact that the job originally was of five days duration.

So many of these clauses crept in because the employers tried to help the Union out of a hole, and then were dragged into the hole on top of the Union. We object strenuously to that clause being in there. It is being interpreted not as it was originally intended to be interpreted.

[249] MR. BUCKLEY: Mr. Arbitrator, may I say something in behalf of the Pennsylvania Excavators. We were one of the guilty ones to enter into the contract two years ago. And as it has been brought out here many times during this hearing, there were a lot of unwritten agreements in this contract that were supposed to be not enforceable. That particular clause of hiring men on a guaranteed work week, or on a job of five days duration doesn't particularly hurt the large contractor. We always have enough men around whereby if we run into a situation as has been brought [250] up here several times during this meeting, that we have other men that we can take off a job some place and put them on there and take care of a situation similar to that which was brought up.

Therefore, when this clause was written, it was written at the suggestion of Mr. White, who was an International man. It was the sole purpose to get at these conditions that Mr. Kelly and Mr. Underwood brought up here some time ago, whereby somebody was taking advantage of their work week. It wasn't too hard to get it in. There was quite a bit of discussion about it, because most of these larger associations are represented by the larger con-

tractors. The larger contractors realizing that that clause probably wouldn't hurt their own personal pocketbook too much didn't fight too hard about it. *And I might also say that it was very rarely enforced.* But the smaller contractors who only hire a man now and then—we had many and many a complaint that came into our Association whereby it was enforced, and we were chastised for putting a clause like that in there, and we were even accused of saying that we put it in purposely to hit the small contractor that was outside the Associations.

Our Association now has taken the stand at our last meeting that they are going to take their chances on any of this paying for work that is not [251] performed. And whether it is in the contract or it isn't in the contract they are not going to do it; they are not going to sign a contract with anything in it whereby they are going to pay for any standby labor; and if they are forced to sign a contract under some duress or something, they are still going to refuse to pay it.

MR. KELLY: You mean even if the Arbitrator says they have to?

MR. BUCKLEY: I am not sure what they are going to do with the arbitration. This meeting came up prior to the Arbitrator injecting into these proceedings.

THE ARBITRATOR: Being injected into it. I didn't ask for it.

August 26 and 27, 1948, Hotel Barclay, Philadelphia

[675] THE ARBITRATOR: And your position as the record now stands really consists of two points: One, you want to cut costs; and two, you want to prevent an increase in costs, first, directly through payment of higher wages, and second, through what you have described as a tightening up on the part of the union in insisting on literal compliance with the terms of the old contract. Sometimes the argument has stressed one point, sometimes the other. Do you follow me?

[688] MR. HALLORAN: . . . So our point is that we have these parallels that the shovel operator works steadily on the job. He gets the top rate, the rate that was agreed on for him and agreed keeping in mind his full ability and maximum production for him and the scarcity of that type of man.

[689] Now we come to the job where he isn't kept busy all day. Even with making the shifts he still isn't working any harder, maybe not as hard as the fellow working on that full production. Furthermore, the similarity between his being changed more than once, from one occupation to another, or even the same occupation from one machine to another, certainly can be compared to that of any number of other trades.

This question that has been brought up could only come to light because of the arbitrary restrictions that have been placed on there and not because of any inherent increase or overloading in the amount of work, but the question only becomes important because of a restriction; and we must point out at this time that the restriction has been in there for some time, in the contracts, of not moving more than once, but I must point out that that is one more thing where the same old clause to be repeated in this year's contract, in the face of the warnings given that they are to be lived up to down to the last comma, is a much more obnoxious situation than the same clause before with the verbal promise having been given and lived up to that those things would not be rigidly enforced. So we have the double thing that in reality in those cases we are not seeking to put any more work on the man; we are seeking to prevent [690] a new interpretation, maybe a more literal interpretation, being placed on the same old words.

THE ARBITRATOR: Well now, there is a little ambiguity on that point in the record at present. Your people on your side have repeatedly said that now that the Union has warned you that they are going to enforce the provi-

sions of the old contract if incorporated in the new contract to the letter, you are alarmed. Now I have listened very carefully to the Union's statement of their position in that respect, and as far as the record indicates, I think you will find this to be true. All they have said is, "We intend to enforce the provisions of the agreement uniformly as to all operators." Does that add up to the same thing, or does that express quite a different notion,

MR. HALLORAN: It expresses quite a different notion, as I see it.

THE ARBITRATOR: That is what it would seem to me.

[716] MR. KELLY: Mr. Mogan, I want to ask you a couple more questions. You attended most of the negotiations, didn't you, for contractors in the past?

MR. MOGAN: (Michael Mogan, Former President of Local) Yes, I have. I remember the Builders Exchange back in 1912 when P. H. Kelly was Chairman of it, Colonel Wiggins—

MR. KELLY: Let's take while Jasper White was Assistant Supervisor. What was your capacity? What was your title in the Local Union?

[717] MR. MOGAN: Well, I was Chairman at one time and have been Business Agent for the last six or seven years, been in the office for the last two or three years.

MR. KELLY: How long were you president?

MR. MOGAN: Well, I have been President—four or five different times I have been Chairman of the Local since 1912.

MR. KELLY: You have heard it stated here by the representatives of the Employers that while there was a provision in the contract that said a man could only shift from one machine to another, must finish his day on the second machine, the Employers have stated that the Local Union and its representatives didn't enforce that provision. Did they or didn't they enforce it?

MR. MOGAN: Well, I will say that probably they didn't, that they would overlook it.

MR. KELLY: Was that usual to overlook it?

MR. McHUGH: It is your witness now. (Manus McHugh, Esq., counsel for Contractors Assn. of Philadelphia)

MR. KELLY: Let me question him.

MR. MOGAN: As long as I have been in that office, I think any of the contractors I ever had dealing with me there, that I cooperated with the contractors, and there are lots of times that different questions came up there that I overlooked.

[718] MR. KELLY: Well now, would that be the result of a phone call on a particular operation, or how would that come about?

MR. MOGAN: Yes, just on phone conversation. Sometimes that was abused. The contractor would give me a story, and when it was investigated I got the wrong story.

MR. KELLY: And it was because the contractor told you on the phone that some difficult emergency situation existed or where the strict enforcement of the contract would not be fair that you told him over the phone you were willing to waive the provision of the contract for that operation?

MR. MOGAN: I would say yes.

MR. KELLY: Was it generally agreed between the Employer and the Union that it wouldn't be enforced at any time?

MR. MOGAN: Oh, no, no. This only governed certain conditions that were brought to my attention.

MR. KELLY: ~~On a particular~~ job at a particular time?

MR. MOGAN: Right.

[721] MR. HIRSCH: As a matter of fact, Mr. Mogan, in some of the negotiations between Mr. Buckley representing the Excavators and Mr. White representing your group, weren't there certain agreements made which varied from the terms of the written agreement which

were confirmed by letter between Mr. White and Mr. Buckley, with reference to some of these points where the Union agreed—

[722] MR. KELLY: Will you produce the letters, if there are such letters?

MR. HIRSCH: I think I can get those letters.

MR. SMITH: He can still ask the question and get an answer.

MR. KELLY: The best evidence is the correspondence.

MR. SMITH: He can still ask the quesion, and he has asked the question. Let's get an answer to it.

MR. HALLORAN: Can I ask a question?

MR. SMITH: Let's get an answer to the question asked.

MR. MOGAN: I won't make any commitment on it.

MR. HIRSCH: You mean you won't or you can't?

MR. MOGAN: Well, I won't.

MR. HIRSCH: That is all right; that is a proper answer.

MR. KELLY: Will you produce the letters. See what the agreement outside the contract was.

MR. BUCKLEY: Mr. Kelly, I better sort of correct Mr. Hirsch on what he is trying to correct. If you are trying to get a letter that is signed by Jasper White stating that he was waiving the jurisdiction of the Union, Mr. Hirsch does not [723] have that letter.

MR. HIRSCH: I didn't mean that.

MR. BUCKLEY: If you are after a letter which was taken in copy of Mr. White's statements to the Association when he made these provisions, you will find those copies of those letters in the files of the Associations, where Mr. White waived a lot of those things, of the thing Mr. Mogan said he didn't want to comment on, or didn't want to answer on.

MR. KELLY: Will you produce the letters?

MR. BUCKLEY: Mr. Hirsch has those letters. But they are not signed by Mr. Jasper White.

MR. KELLY: By whom are they signed?

MR. BUCKLEY: They are just memoranda, taken in letter form around the table with all the group of men present, of what Mr. White said and how he would operate.

MR. KELLY: Well, I object to any memoranda that you prepared.

MR. BUCKLEY: They are letter memoranda taken—

MR. KELLY: Signed by any representatives of the Union?

MR. BUCKLEY: No.

Mr. HIRSCH: They would read, "This letter is to confirm the [724] oral understanding we had today. If this is not our understanding, please notify us in writing." And never was an answer returned.

MR. BUCKLEY: And letters sent to your Union after the conference setting forth in detail the understandings at the conference and asking Mr. White at the time if there was any comment on those conferences to kindly advise us, and naturally no answer ever came back.

MR. KELLY: Why do you say "naturally"?

MR. BUCKLEY: You wouldn't expect Mr. White to come back and tell us that he waived the jurisdiction of a compressor, for example, when he knew in the book that it was the jurisdiction of the Union to have it.

MR. KELLY: Do you have a letter where you wrote to him and comfirmed an oral understanding that he waived jurisdiction over compressors?

MR. BUCKLEY: I didn't say that. I said these letters will tell you what he did waive and what he didn't waive.

MR. KELLY: What did he waive?

MR. BUCKLEY: These letters will tell you. I can tell you some of the things he waived. He waived in the last negotiation, bringing you up to date, he waived any oilers which you might have on anything less than half yard

machines. [725] He waived any repairs of any type of machine that you have providing you could just move it across the street from the site. He waived that four-hour compressor and also stated he wasn't going to worry too much about a small compressor operating around.

[760] MR. HALLORAN: No. I am not going to ask any such contractor, but I would like to point out that in the face of the avowed intention, with so much emphasis made on what would be fair or unfair so that these things would be enforced on everybody, that furthermore we are asked to believe, even if it is there in writing, that if some alleviation of obnoxious conditions are worked out of this arrangement or had been worked out in the previous extended negotiations, that the people who did most to go along with the Union in trying to get them across in agreeing to the obnoxious [761] demands, that those people then would be penalized more than the people who carried the fight to try to prevent some of those things.

So regardless of the fact that the thing they get out of it is limited only to wages, I ask if there is any reason for us to believe or you to believe or anybody to believe, the Union itself to believe, that if we secure any alleviation in the conditions in these agreements, that if we are asked to believe that the contractors who went along, say, some of these seventy—reputed to be seventy—is it likely that they are going to have some things enforced on them more than are enforced on us?

MR. KELLY: Let me ask Mr. Buckley a question. What do you pay on the Market Street Subway?

MR. BUSKLEY: We had an agreement between ourselves that whatever we paid on the Market Street Subway would not be used as evidence for any part of these negotiations.

MR. KELLY: You are paying double time for overtime?

MR. BUCKLEY: You have that letter, and the letter agreement which we have specifically says that.

MR. KELLY: But you are paying double time—

MR. BUCKLEY: If you want me to answer the whole thing, the Flynn Corporation is paying to settle a court decision which they had gone into to determine whether or not the Market Street Subway was a heavy construction or a building construction, and after they had gone through a lot of litigation and couldn't settle their, [798] strike, I came into the picture and made an agreement with Mr. Carter, sanctioned by Mr. McDonald, who had talked to me on the telephone, whereby if I paid double time on the subway construction, they would allow Flynn to pay time and a half; they would allow the men who were doing the sewer work, Washburn, to pay time and a half, and we made an agreement up to that effect that we would pay double time on the subway and the rest of the contractors, such as Flynn and Washburn, would pay time and a half. In addition to that, there was a letter issued with that that evidence would not be used, or that that precedent would not be used in any portions of these negotiations.

September 9, 1948, Barclay Hotel, Philadelphia

[903] MR. SMITH: Now, we have made point of the fact that many agreements were made with the management of this union prior to April of this year which varied the terms of the written contract. It was Mr. Buckley's custom to report to his association in connection with these matters from year to year, and I want to introduce a copy of a report made by him in connection with that and have it marked, and I will have that photostated.

[904] THE ARBITRATOR: That will be Exhibit 42.

MR. SMITH: Now at this point I would like Mr. Halloran to testify in connection with this information. Harry, will you proceed.

THE ARBITRATOR: Just one second, before you go ahead.

With reference to these exhibits that have been offered

and then withdrawn simply for the purpose of photostating, when is Mr. Kelly going to have an opportunity to examine them?

MR. SMITH: He can examine them now if he wants to.

THE ARBITRATOR: Why don't we put the documents you are withdrawing in a pile here in the center so that they are all together for his inspection when he wants to look at them.

MR. SMITH: Now, Mr. Halloran, will you proceed.

MR. HALLORAN: We have referred to the fact that in various of the negotiations which led up to the previous contract certain explanations and modifications were made verbally. We have also referred to the fact that those modifications and explanations were set up in practice and adhered to. Among those things to which we [905] referred and which I will give a summary of are, first, the practice of the limitation of one 110-foot compressor on an excavation job could be operated four hours in any one week was a limitation as written into several of the contracts. However, on several occasions when a discussion came up as to the continuation, or first, the insertion of that, it was brought out by the union representatives that we knew that that limitation had not been lived up to strictly and would not be enforced strictly, but that some limitation had to be set in there; and our people were called on, the representatives of our association present at the meeting, were called on and reminded that those limitations had not been strictly enforced.

I, for one, was one of the contractors who sat in on several of the meetings, and the union representatives would say to me, *"Well, Halloran, you know we haven't enforced that. Why are you trying to make the rest of the people on the committee think that it is now our intention to start enforcing it?"*

And I had to admit that that limitation had not been enforced.

The limitation as to the extent of the agreement had been mentioned. First, it had been contained in our agreement that the only territorial limitation was [906] for Eastern Pennsylvania and Delaware and no subdivision as to Philadelphia County and the other four counties immediately adjacent. It was repeatedly discussed at these meetings when that broad coverage was extended that our contractors had not been held to the Philadelphia rates and conditions when they were outside of these five counties, but that the jurisdiction awarded this Union by its own International was such and such, that that was the only way they could write the contract, and that the best proof that these Philadelphia rates and conditions would not be enforced on us when we went to work outside these five counties was an acknowledgment that it had not been enforced.

[911] MR. HALLORAN: Then when we get up considering our discussions and the demonstration that the limitation appearing in the title for the first time in 1946 did not carry the force that it had been attempted to say that it did carry as to setting up for the first time a very narrow limitation in our kind of work, we know we show by this list of contracts performed since that time that that limitation was not imposed on our work and that the work listed since 1946 was carried on under the terms of our agreement with the rates and the overtime provision and the pump provision.

Now, we believe that the practice of having these verbal modifications or explanations, which were used in order to secure our agreement to things which appeared like a greater restriction in writing than they actually were in [912] practice, we believe we have effectively demonstrated that, and we would like to point out that although the opportunity has been given for the union representatives to disprove that, that we don't believe that they can; and we know that it was so generally practiced, and to the knowledge of everybody concerned as far as the

practice involved, that it can't be disputed. We do believe that the first knowledge that some of the active union people knew when the practice was allowed on the jobs and they in turn had to consult their office to find out whether or not that agreement was made, whether it was verbal modification or what form of inquiry was made, we have no way of knowing, except we do know that the practice or practices were continued as had been promised in these verbal modifications, some of which were handled in a different way by the other associations, illustrated by the letter that Mr. Buckley has introduced, to his own people, confirming the arrangement. But we do know that when questions did come up as to whether or not these verbal modifications had been agreed to, that it ended up by the people who raised the question on the job being informed by the union office that that was the practice, and we did continue the practice on our jobs as far as the modification or restrictions about when compressors can be used, as far as the number of compressors over three, that limitation of three not being [913] strictly adhered to—such limitation as far as the number of times a man might change from one machine to another. All of which verbal modifications in the establishment of a practice were the things we included as part of our offer, and where our offer in most respects did suggest changes from last year's contracts, those changes which we suggest, such as I am listing, were to secure the continuation of the practice which had been prevalent under the old agreement but practiced because of the verbal modifications and the adherence to those verbal modifications.

MR. SMITH: Mr. Buckley, do you have anything to add to that?

MR. BUCKLEY: Only bearing out what Harry says relative to building construction and heavy and highway, we never, our Association, attempted to negotiate a heavy and highway contract. Our contract is always based on strictly building construction and was so worded.

Furthermore, for the consideration of the overtime, having double time in the building construction industry, we were afforded certain privileges which the heavy and highway didn't have, such as, no oilers on truck cranes, such as not being enforced too strenuously, as he quoted, on this 110-foot compressor; also [914] certain limitations on mixers, which Mr. Schwertner will testify about; and also on verbal understandings that I have quoted in several previous cases in regard to methods that we had done our work under; and such as has been so stated before as to these here air pumps—we have never had any men on those air pumps—little lighting generators which we may have to have on jobs on night work and so forth; there has never been anybody on them. Of course, if you have large generating plants, that is a different story, but these air hoists which we have enumerated on several occasions, there has never been anybody but laborers operate them; and the repair items, if the machine was brought off the site, it was definitely never considered under the union control; it had always been done by whoever we may be able to get to do the job.

[915] THE ARBITRATOR: What is the reaction of your men where they are asked to work under a lower rate using the same equipment?

MR. BUCKLEY: We don't particularly have too much trouble with the men relative to that. The only time that you do have that trouble is when supply and demand seems to be short. Then, of course, those conditions and every other little condition which they can bring up will try and be enforced, and if they can get a [916] higher rate by taking advantage of a condition whereby the supply doesn't quite meet the demand, they may ask for it or they might make a little squawk about it and say that they would like to be paid the higher rates.

THE ARBITRATOR: You pay the time and a half when you go on other work?

MR. BUCKLEY: Yes, we pay time and a half.

THE ARBITRATOR: All right, we will see how you might be able to explain that to your men—

MR. BUCKLEY: We don't have any trouble with the time and a half. We have never had a complaint on time and a half. I might say that the biggest complaint that we have relative to that is particularly the engineer who operates the shovel and crane. There is a ten cent differential at the present time between those two men, and when they got on highway work, sometimes we find them making quite a kick, not knowing why they should be cut that ten cents an hour.

[926] MR. SCHWERTNER: I just want to bring out one point. In my experience in the construction business, which covers some thirty-odd years, ten of which were with the Turner Construction Company and twenty of which I have been in business for myself, never have we been required by the Engineers to engage an engineer on a concrete mixer not equipped with a power loader. I just want that fact established in the record. And neither has there been any restriction on the size of such mixers.

THE ARBITRATOR: Not equipped with a power loader?

MR. SCHWERTNER: Yes. Because after all, a mixer not equipped with a power loader—I don't know just what the engineer would do. Do you see what I mean?

THE ARBITRATOR: Yes, all right.

MR. SCHWERTNER: I just want that fact established for the record.

MR. KELLY: Mr. Underwood says that that is true but he says it was restricted to mixers of less than a half yard.

MR. SCHWERTNER: Well, that is covered in the contract, but I know that in my experience with Turner Construction Company most of our mixers there were 21-S mixers, and we were never required to put an engineer on them, that is, when not equipped with power loaders.

[927] MR. McHUGH: Mr. Underwood's remark doesn't go to Schwertner's personal business or his experience with Turner, does it?

MR. KELLY: He is talking about his practice, as he understands the practice.

MR. McHUGH: He has no personal knowledge in respect to what Mr. Schwertner is talking about. That is my only point.

MR. SCHWERTNER: There just hasn't been a demand made on us on those pieces.

THE ARBITRATOR: Is 21-S a half yard?

MR. SCHWERTNER: 21-S is a ¾ yard mixer. That has been the only one I have had any experience with. I mean, that is the largest one to which my experience relates.

THE ARBITRATOR: Although the contract by its terms does require an engineer on such equipment over a half yard?

MR. SCHWERTNER: 21-S is a ¾ yard mixer. That has been the only one I have had any experience with. I mean, that is the largest one to which my experience relates.

THE ARBITRATOR: Although the contract by its terms does require an engineer on such equipment over a half yard?

MR. SCHWERTNER: I guess it could be construed as that, don't you think, Mr. Underwood?

MR. UNDERWOOD: Yes, I would say so.

MR. SCHWERTNER: I think your book says over a half yard, but I [928] don't think that has ever been enforced. It hasn't been enforced, to my knowledge. I will put it that way.

[1035] MR. HALLORAN: I would like to point out that the clause that we inserted for the Engineers on the job being required to make the repairs as required by the Employer would not be necessary if it were not for cer-

tain new threatened interpretations, even of the old agreement, plus the new request by the Union this year, meaning that certain things which were practiced under the old agreement as described by Mr. Homer and as described by Mr. Buckley, that certainly those things might now be stopped or attempted to be stopped by the Union, either under a different interpretation of the old agreement or their new suggested agreement.

THE ARBITRATOR: Or a different interpretation even of the new [1036] suggested agreement, Mr. Halloran, because I don't think anybody here is under the illusion that no matter how clearly the award is written, that everybody is going to have exactly the same idea of what every clause means, or that there will be no questions of interpretation raised.

MR. HALLORAN: And we are quite concerned with the threat that with the things to be interpreted down to the last comma or some such thing, that those examinations of commas will not be for the contractors' benefit.

[1049] MR. SCHWERTNER: There is one thing I want to bring out, however, Ed. In those twenty-nine pages it will be found that this master mechanic clause as now written is an evolution of a clause previously inserted, that didn't become vicious until just a couple of years ago. We have had a master mechanic clause in there in old agreements that wasn't particularly obnoxious, but as now written and as it now appears the intention of the Union to enforce it if they get it, it would be particularly obnoxious. And I think, if you examine the record, you will find exactly what I have tried to say here, that this master mechanic clause as contained in the agreement submitted by the Union is an evolution that hasn't become vicious until the past two or three years, and the record shows that.

MR. HIRSCH: This master mechanic clause is important only when [1050] it becomes again a compelling force—I mean, when you are compelled to hire these people whether you need them or you don't need them.

[1064] MR. HALLORAN: Let me correct Mr. McHugh. They haven't demanded it for the first time, but if it were put in, it would be the first time it was put in, the automatic installation of master mechanics. They have demanded it in the past but it was never agreed to by our group in the past.

MR. KELLY: Why didn't you put that in and then have a verbal agreement to the contrary?

MR. HALLORAN: Well, there are some limits.

MR. McHUGH: There is a reason for that, and the reason was we had a verbal agreement on the things that Jasper White said had to be in there to keep the International happy, and it is not customary with the International to have the [1065] mechanics on our type of work, apparently. That is the answer to that.

January 17, 1949, Architects Building, Philadelphia

[1089] MR. HIRSCH: Mr. Feinsinger, if you remember, you criticised us at length all during the arbitration proceedings because there were a large number of unwritten understandings with this Union, and we have been trying, endeavoring, by means of this arbitration to get them in writing so that there can't be different interpretations for different people, depending upon who they are and as to what the understanding is.

Exhibit P-202A

May 4, 1951.

Mr. Roy Underwood, Business Manager,
Operating Engineers Union Local #542,
City Centre Building, 121 N. Broad St.,
Philadelphia, Pa. STRAIGHT WIRE.

THE BUILDING AND CONSTRUCTION TRADES COUNCIL, AT ITS REGULAR MEETING TODAY, HEREBY ORDERS OFFICERS OF LOCAL UNION #542 TO RETURN THEIR MEMBERS BACK TO WORK AT ONCE. THE OFFICERS OF LOCAL #542

ARE HEREBY INSTRUCTED TO APPEAR BEFORE THE EXECUTIVE BOARD OF THIS COUNCIL ON TUESDAY, MAY 8TH, AT 1:30 P. M. SHARP.

James L. Loughlin,
Assistant Business Manager

COPY OF TELEGRAM SENT TO
MR. HARRY TAYLOR, SECRETARY
A. G. C. FRIDAY—MAY 4, 1951.*

Exhibit P-202B

BUILDING AND CONSTRUCTION TRADES COUNCIL
OF PHLADELPHIA AND VICINITY—A. F. of L.

715 North Broad Street, Philadelphia 23, Pa.
May 4, 1951
5.10 P. M.

Mr. Harry Taylor, Secretary
General Building Contractors' Association
#210, Architects Building
17th and Sansom Sts., Philadelphia, Pa.
Dear Mr. Taylor:

Supplementing our telephone conversation of today and as per request made by you and Mr. Blumberg, we are enclosing herewith copy of telegram requested sent to Mr. Roy Underwood, Business Manager of the Operating Engineers Union Local #542 which is self-explanatory and for your records.

Sincerely yours,
For: JAMES L. LOUGHLIN,
Assistant Business Manager

Exhibit P-208

DEPARTMENT OF POLICE

Atlantic City, N. J.
March 19, 1948

RE: Your request Frank Lentino

Dear Sir:

In reference to the above captioned subject, be advised that on April 9, 1938 one Edward J. Crosson, proprietor of a store located at 623½ Atlantic Ave., made a complaint in this office of a Hold up and Robbery. Upon our investigation three men were arrested for this charge, one Frank Lentino, Salvatore Soneasa, and Joseph Labarco. All three of these men were tried, pleaded guilty, and were sentenced to 10 to 12 years in States Prison, at Trenton, N. J.

Enclosed you will find photograph of all four men arrested in this Hold up and Robbery. Frank Lentino is the number 3 man on this photograph, our number 10-687.

Hoping this information may be of some value to you, I remain,

Very truly yours;
CAPT. JAMES H. FARLEY

Exhibit P-209

PENNSYLVANIA EMPLOYER-WAGE EARNER JOB PROTECTION ASSOCIATION

COPY

Mr. James L. McDevitt, President, April 14, 1952
Pennsylvania Federation of Labor,
Federation Building
Harrisburg, Pa.,

Dear Jim:

I have been furnished a copy of your untruthful letter, and misleading circular, addressed to your affiliates under date of March 17, 1952. It is hard to believe that anyone in your position would use means and methods to interfere with the effective work of this Association. You understand, fully, the fight we have been conducting against the flood of cheap foreign imports that endanger the jobs of your members in many of Pennsylvania's industries.

You know that I have conferred with you many times during the past few years, upon this subject. You also know, and have known, that my office is in Harrisburg, where all of our activities are centered. You know, too, that you have done just nothing to stop cheap foreign imports from causing unemployment among your members. Also, when the Federation Convention of York, last year, approved of two resolutions against cheap imports, you failed to present the resolutions to the A. F. of L. Convention.

At your recent Convention in Wilkes-Barre, the ten resolutions from unions representing nine industries, showing the disastrous effects to the State's industries from low tariffs upon cheap imports, were not placed before the Convention with any help from you. You had completely ignored the unemployment of your members caused by these imports.

In fact, it appears that your attack upon this Association was because we had assisted the unions from nine industries present authentic records of the flood of cheap imports that has caused unemployment among their members in Pennsylvania.

You should not hesitate to defend Pennsylvania's manufacturing industries. The financial reports of your Federation show that manufacturers, some of whom are members of the Pennsylvania Manufacturers' Association, along with business firms, have contributed to advertising in your Annual Year Book to the amount of approximately $737,000.00, in the past nine years. The reports also show that certain agencies have received the fat sum of approximately $438,000.00, as commissions from these collections, during the same period. This was about 60 cents of every dollar collected for advertising in the name of the Federation.

The report for 1951 shows your Federation collected a total of $95,657.35 for Year Book advertising last year, which was several thousand dollars more than your members paid in dues. That report also shows that one agency

was paid $56,311.77 commissions on these collections, last year.

After printing the Year Book, the small percentage of the advertising collections left for the Federation were channeled into your general fund, from which you received your salary and expenses, as President of the Federation.

So, the Pennsylvania manufacturers, whom you love to denounce when it suits your selfish purposes, have been indirectly helping to pay your salary and traveling expenses through their donations of advertising to your Year Book. While they have paid these funds, which go into the general funds of your Federation, you have failed to show any interest in protecting the industries of these Pennsylvania manufacturers from the damage to them, caused by cheap foreign imports.

The ALF News Reporter, published weekly by the American Federation of Labor, prints this declaration in bold type upon the editorial page of the Reporter:

> "THE AMERICAN FEDERATION OF LABOR DOES NOT ACCEPT PAID ADVERTISING IN ANY OF ITS OFFICIAL PUBLICATIONS. NO ONE IS AUTHORIZED TO SOLICIT ADVERTISING FOR ANY PUBLICATIONS IN THE NAME OF THE AMERICAN FEDERATION OF LABOR."

Does Mr. William Green, President of the American Federation of Labor, know of this high finance advertising carried on by the Pennsylvania Federation of Labor, the official representative organization of the A. F. of L. in this State?

Finally, Jim, in spite of the malicious, unfair attack you made upon this Association without any just cause, we stand ready to cooperate with the Federation, and assist you in any sincere and honest efforts you may make to defend Pennsylvania's industries and the jobs of Pennsylvania's wage earners.

We will continue to help any wage earners in the State, whether they be organized in the A. F. of L., the C. I. O.,

or if they are unorganized in their efforts to prevent unemployment caused by the mass of cheap foreign imports coming into the United States.

Truthfully Yours,
DAVID WILLIAMS, *Director*,
Former Secretary-Treasurer of the
Pennsylvania Federation of Labor)

Exhibit D-3

Excerpts from the Constitution of the International Union of Operating Engineers as adopted December 31, 1938, and last amended by the 24th International Convention in April 1952.

Purposes

Art. I, Section 2. The objects and purposes of this organization are to elevate the trade of operating engineers (by which trade the membership thereof earn a livelihood for themselves and their dependents) to its proper position in all industrial activity and the ranks of organized workers; to encourage a higher standard of skill among its members; to cultivate feelings of friendship among the men of the craft and those who may employ its members; to assist its members in securing and stabilizing employment; to assist employers in obtaining skilled craftsmen from among its membership; to encourage and assist affiliated Local Unions to negotiate and consummate contractual relations with employers, through which wages, hours and conditions of employment may be properly regulated to the benefit of both the membership and the employers; to encourage and legislate for, or by economic means secure, such reduction of the number of daily and weekly hours of labor as will guarantee the proper distribution of available work to the greatest number of the craft; to bring about increased opportunity for recreation and rest, the proper freedom to observe the days set aside for religious worship and those recognized as the days to commemorate certain national, state and city events and Labor Day, to elevate

the moral, intellectual and social conditions of all members by legal and proper means, and to encourage, aid and assist all Local Unions in the enactment of state and city Engineers' License Laws for the better protection of life and property, through its various subdivisions and officers.

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Government

Art. I, Section 3. The International Union of Operating Engineers shall be governed by the following bodies:

1. General Convention
2. General Executive Board
3. Officers
4. Board of Trustees
5. State and Provincial Organizations
6. Joint Executive Boards
7. Parent Local Unions.

And each of such bodies shall constitute a distinct entity each with its own separate identity but functioning in conformity to the Constitution and Ritual. No Local Union or its officers, employees or members, shall have power or authority to act, nor be deemed to act, on behalf of or agent for, or legally bind any other Local Union or member thereof, the General Convention, the General Executive Board, any of the General Officers, or the International Union of Operating Engineers, unless such authority is expressly granted by the provisions of this Constitution or by other written document.

* * * * * * * *

GENERAL CONVENTIONS

Powers

Art. III. Section 1. All the sovereign power including the legislative, executive, administrative and judicial, of the International Union of Operating Engineers shall be vested in its General Convention when in session. Specifically, but not in limitation of the power thus vested, the General Convention may grant and issue charters for Lo-

cal Unions and subdivisions thereof and local, State and Provincial organizations and such other subdivisions of the International Union as from time to time may be deemed advisable; set the cost for said charters and necessary supplies issued with said charters; suspend and revoke any of said charters; adopt and issue a seal for the International Union, its General Officers, its Local Unions, local, State and Provincial organizations and any other subdivisions; adopt, print and issue dues books for the use of the membership; print and issue per capita tax dues stamps and collect for same; print, issue and mail an official journal; print and issue such books, stationery, supplies and paraphernalia and sell the same to affiliated Local Unions, local, State and Provincial organizations and any other subdivisions for the proper keeping of their records and affairs; invest the funds of the International Union; buy and sell real estate (improved or otherwise) and bonds and other securities; establish, impose and collect per capita tax; establish, impose and collect assessments upon members, charter applicants, Local Unions, local, State and Provincial organizations and any other subdivisions as hereinafter provided; impose an initiation fee and initiation fee tax; establish a Defense Fund and pay strike benefits; establish, revise, amend and from time to time change the Death Benefit Fund and pay regulated benefits therefrom; supervise the operation of Local Unions, local, State and Provincial organizations and any other subdivisions and appoint supervisors and receivers when necessary; prefer charges against Local Unions, local, State and Provincial organizations and any other subdivisions and officers (individually or collectively) or their members (individually or collectively) and order trials with authority to discipline those affected; prefer charges and order trials with authority to discipline any General Officer or any member of the Board of Trustees; register, copyright and trademark the name of its official journal, its emblem and any document of the organization; establish and maintain a gen-

eral headquarters in Washington, D. C.; employ clerical and other help; employ organizers and deputies; confiscate and sue for the possession of all real and personal property, paraphernalia, books, charters, records, card indexes, seals and funds of a Local Union, local, State or Provincial organizations and any other subdivisions; establish a General Executive Board with full powers of the Convention between Conventions; include and adopt as part of the Constitution a procedure for the government and regulation of Local Unions, subdivisions thereof, local, State and Provincial organizations and any other subdivisions; establish, define, segregate, assign and amend craft jurisdiction and territorial jurisdiction to which Local Unions, their subdivisions, local, State and Provincial organizations and any other subdivisions already established or hereinafter chartered shall confine their activities; establish, enter into, amend or abrogate understandings or written agreements with other craft unions affiliated with the American Federation of Labor; amalgamate competitive craft unions with the International Union of Operating Engineers and by such amalgamation compel all individual officers and members of the amalgamated union to be subservient to the Constitution, amendments thereto and decisions and orders of the General Executive Board and the General President of the International Union; review and decide appeals from decisions properly filed with it; provide for the general welfare of the organization and its members; take all steps necessary to protect the interests of the organization; together with all other rights, powers, privileges and immunities not herein specifically denied.

Method of Holding Conventions

Art. III. Section 2. A general Convention of the International Union of Operating Engineers shall be held on the second Monday of April, 1940, and thereafter Conventions shall be held quadrennially at such place as the preceding Convention may determine

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Composition of Convention

Art. III. Section 3. The General Convention shall be composed of legally elected General Officers, members of the General Executive Board and the Board of Trustees and the duly elected representative delegates from Local Unions, and none but these shall be entitled to vote. The election of delegates and alternates shall be held at an election in the said Local Unions in February prior to the Convention.

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ARTICLE V
POWERS AND DUTIES OF THE GENERAL EXECUTIVE BOARD

Members

Art. v. Section 1. The General Executive Board shall consist of the General President, First General Vice President, Second General Vice President, Third General Vice President, Fourth General Vice President, Fifth General Vice President, Sixth General Vice President, Seventh General Vice President and the General Secrtary-Trasurer, and each member of this Board shall be provided with an official seal.

Powers

Art. V. Section 2. All the powers of the General Convention when in session shall, when the same is not in session, pass to and vest in the General Executive Board, with the exception of such powers as may herein be specifically delegated to the various officers and subdivisions of the International Union. Specifically, but not in limitation of its power, it may initiate amendments to the Constitution and conduct referendums thereon, and it may formulate and establish pensions for such of the General Officers of the International Union of Operating Engineers and the employes of the said International Union as the General Executive Board shall deem worthy, and it may order that payments be made thereon for the terms allotted, in such manner as to vest irrevocably the benefits thereof; pro-

vided, however, that any and all pension applications so adopted shall be reasonable and non-discriminatory.

Vacancy in Office

Art. V. Section 3. In the case of death, resignation or removal of the General President, the General Secretary-Treasurer shall call a meeting of the General Executive Board within fifteen (15) days, and said Board shall elect from among its members a General President, who shall take office immediately following his election by the Board The General Executive Board shall and is hereby ordered to fill any vacancy occurring in the General Executive Board or the Board of Trustees. All charges against General Officers shall be heard and decided by the General Executive Board.

Meetings

Art. V. Section 4. The General Executive Board shall hold sessions at such places and at such times as it may decide. It shall meet at the call of the General President, or at the request of three members of the General Excutive Board.

Quorum

Art. V. Section 5. A quorum for the transaction of any business by the General Executive Board shall consist of a majority of the members thereof.

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Hearings

Art. V. Section 7. The General Executive Board may hold hearings and conduct trials and decide appeals in connection with any matter, complaint, business or case coming before it and the decisions of the General Executive Board thereon, and its findings of facts, shall be final, conclusive and binding. It shall have full power to determine the method of procedure and the times and places for the holding of hearings, trials and appeals. It shall also be empowered to interpret the provisions of this Constitution and decided questions of law arising thereunder.

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To Review Cases and Interpret Laws, Etc.

Art. VI. Section 2. He shall review all cases, complaints and charges filed with the General Executive Board or the General Secretary-Treasurer. He shall be empowered to render decisions on the merits of such cases, complaints and charges and his findings on the facts shall be final and conclusive. He shall also be empowered to interpret the provisions of the Constitution and decide questions of law arising thereunder. He shall be vested with all the administrative powers of the organization.

To Invoke and Administer International Supervision and Other Peremptory Powers

Art. VI. Section 3. He shall have power to direct and supervise all Local Unions, Local Officers and any other subdivision of the International Union and members. Whenever in his opinion the best interests of the organization require it, or Local Unions, Local Officers and any other subdivision of the International Union or members shall be deemed by him to be incompetent, negligent, or to have failed in carrying out their respective duties, or to have violated the Ritual, Obligation, laws, rules or decisions of the organization or its duly constituted authorities, he shall have full power to suspend or remove such individual members, suspend or remove such Local officers, suspend or revoke charters of such Local Unions or place such Local Unions and their officers and members under International supervision. He shall have power to designate and appoint persons to fill the places of those Local Officers of Local Unions suspended, removed or placed under International supervision, which appointees shall conduct the affairs over which they have been appointed for such time and in such manner as he may direct. All of the business, finances, affairs and government of any Local Union whose charter shall have been suspended by the General President or shall have been placed under International supervision by him, shall be fully and completely conducted and administered by the General President or his deputy thereunto

appointed with full power of control therein and thereover. During such suspension or International supervision all rights and powers of the Local Union to conduct its own affairs shall be suspended. He shall countersign all vouchers and checks for payment of monies or for withdrawing funds from the bank. He shall have power to appoint Local Officers pro tem and all committees not otherwise provided for, to deputize any member in good standing to perform any of the powers and duties of his office.

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As Chairman of General Executive Board, Etc.

Art. VI. Section 5. He shall preside as chairman of the General Executive Board and shall make a full report of the work in his office at each Board meeting. He shall devote his full time to the duties of his office. He shall have power to call upon any and all subdivisions, officers and members for assistance and advice when occasion demands or requires it. He shall be strictly accountable and responsible for the faithful performance of his duties and shall administer and enforce every law, rule, regulation and requirement of the Constitution, Ritual and Obligation. He shall be vested with unlimited discretion in the application and administration of his powers and duties. He shall be vested with such other powers and duties as the General Executive Board may from time to time specifically delegate to him.

Hearings for Members

Art. VI. Section 6. Any and all members, Local Officers and Local Unions affected or aggrieved by any act or decision of the General President, may demand a hearing thereon before the General Executive Board, with appeal to the General Convention in the manner hereinafter prescribed.

To Make Visitations

Art. VI. Section 8. Should any Local Union be involved in trouble or submit grievances to the General Presi-

dent or the General Executive Board, the General President shall visit such Local Union in person or send a deputy.

Vested With All Powers of General Executive Board in Interim, Etc.

Art. VI. Section 9. All powers heretofore vested in the General Executive Board when in session shall, when the same is not in session, pass to and vest in the General President. All of the acts and decisions of the General President shall be reviewable by the General Executive Board and shall continue in full force and effect until revoked by action of the General Executive Board.

ARTICLE VII

POWERS AND DUTIES OF VICE PRESIDENTS

Art. VII. Section 1. The General Vice Presidents of the International Union of Operating Engineers shall be members of the General Executive Board. They shall assist the President in the discharge of his official duties in such manner as he may direct and shall have such other powers and duties as from time to time may be specifically delegated to them by the General Executive Board.

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ARTICLE XVI

DISCIPLINE AND EXPULSION IN GENERAL

Penalty for Issuing Defamatory Literature

Art. XVI. Section 1. In addition to the provisions of this Constitution setting forth the causes and the manner and form in which Local Unions, officers and members thereof may be disciplined and penalties may be invoked, any Local Union, subdivision or member thereof publishing or circulating literature of a defamatory nature against any candidate for office, or officer, may be tried by the General Executive Board upon charges filed with it, and upon conviction, may be disciplined or expelled as the General Executive Board may determine.

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General Executive Board May Prosecute

Art. XVI. Section 3. Any violation of the Constitution, Laws, Obligation and Ritual, or the rules, regulations and edicts issued by any officer or subdivision thereunto authorized by any member, subdivision or officer, may, if not prosecuted by the subdivision thereunto authorized, or if no provision has been made therefor, be prosecuted, heard and penalized by the General Executive Board.

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Charges by General Officers

Art. XVI. Section 5. Any General Officer may file charges in any Local Union against any member thereof.

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ARTICLE XVII

APPEALS

Appeals to General Executive Board

Art. XVII. Section 1(a). Any General Officer who shall have filed in a Local Union charges against a member thereof, and any officer or member of a Local Union, may appeal to the General Executive Board from the adoption of any action by said Local Union, or from any decision rendered by the General President. Any Local Union or member thereof which belongs to a local, State or Provincial Organization or Joint Executive Board may appeal to the General Executive Board from any act or decision of said local, State or Provincial Organization or Joint Executive Board. Notice of such appeal must be in writing and filed with the General Secretary-Treasurer within thirty (30) days from the date of the adoption of said action or the rendition of said decision by the General President.

Requests to modify, continue, amend, withdraw or invoke International Supervision, together with official actions or inaction thereon shall constitute appealable matters and be processed in the manner and form regulating appeals under the Constitution. Any such request when signed by not less than 25 per cent of the members in good standing

of a Local Union shall cause a referendum on the subject to be submitted to the membership by the General President, who shall be guided by the results thereof in his decision on the question involved therein.

Art. XVII. Section 1(b). The party making such appeal must file with the notice of appeal a written statement covering the decision of the General President complained of, together with sufficient facts to permit the General Executive Board's consideration of the same, or a complete statement of the evidence, exhibits and decision in the case of an appeal from the act of a Local Union or subdivision herein referred to and at the same time file a copy of said evidence, exhibits and decision with the said Local Union or subdivision affected. The General Secretary-Treasurer shall thereupon notify the party against whom the appeal is taken, which party shall be allowed thirty (30) days from such notice within which to file answer or defense. When both parties have properly filed the matters hereinbefore required, or upon the expiration of the period allowed for such filing, the General Executive Board shall proceed to hear the appeal, either upon the record or upon retrial, or both, and render its decision thereon.

Art. XVII. Section 1(c). All interpretations and decisions by the General Executive Board involving the organic law of the International Union of Operating Engineers shall be subject to review only by the General Convention, and all findings of facts by the General Executive Board shall be final, conclusive and binding.

Appeals to General Convention

Art. XVII. Section 2. Any subdivision within the International Union of Operating Engineers and any officer or member thereof and any General Officer may appeal from the decision of the General Executive Board to the General Convention. Notice of such appeal, together with a complete statement of the record, findings and exhibits in the case must be filed within thirty (30) days from the rendition of a decision by the General Executive Board by

delivery of said documents and notice of appeal to the General Secretary-Treasurer.

All Court Actions Superseded

Art. XVII. Section 3. No suit or other action at law or equity shall be brought in any court by any member, officer or subdivision of the International Union of Operating Engineers until and unless all rights, remedies and provisions for hearing, trial and appeal within the Organization shall have been properly followed and exhausted by the member, officer or subdivision complaining. Any member violating this provision, shall, in addition to the penalties prescribed in the Constitution and ritual, be automatically fined the full amount of the costs incurred in the defense of any such action by the Union, together with such costs additional as the court may fix or assess against said member.

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ART. XXIII—SUBDIVISION 1

OFFICERS

Titles

Art. XXIII. Subdiv. 1. Section (a). The officers of the Local Union shall be the President, Vice President, Recording-Corresponding Secretary, Financial Secretary, Treasurer, three Trustees, three Auditors, Conductor, Guard, and such delegates and committees as may be elected. In addition to the election of its constitutional officers, a Local Union may, my its by-laws, define the status of any of its business managers, business representatives, agents, and similar classifications to be by either election, appointment or hiring as it may deem advisable. The offices of Financial Secretary and Treasurer shall not be held by the same person.

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Executive Board

Art. XXIII. Subdiv. 1. Section (c). Local Unions may by their by-laws establish executive boards and in

such event the same shall be conposed of the President, Vice President, Recording-Corresponding Secretary, Financial Secretary and Treasurer, together with such business agents, representatives or managers as the by-laws may provide, and other members of the Local Union may be elected thereto by the Local Union and appointed by the President.

Powers of the Executive Board

Art. XXIII. Subdiv. 1. Section (d). The Executive Board shall be the policy-making and administrative tribunal of the Local Union. It shall have such powers as may from time to time be delegated to it by action of the Local Union, or conferred by the Constitution. All acts of the Executive Board shall be reviewable by the Local Union but shall be maintained in full force and effect, subject only to revocation by action of the membership of the Local Union if taken at the next subsequent membership meeting following the adoption of the act in question.

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ART. XXIII—SUBDIVISION 2
POWERS AND DUTIES OF OFFICERS

President

Art. XXIII. Subdiv. 2. Section (a). It shall be the duty of the President to preside at all meetings, enforce the Constitution, Laws, Rules, Ritual and customs of the organizations; to decide all questions of order subject to an appeal to the Local Union; to cast the deciding vote in case of a tie; to sign all orders on the Treasurer for the disposition of funds authorized by the Local Union; to read all receipts from the General Secretary-Treasurer for funds sent to the General Office; to appoint all committees unless otherwise provided for; to be custodian of the quarterly password and examine the credentials of any member before bestowing the same; to furnish the General President full and complete information on any subject within his control or knowledge when requested; and to perform such

other duties as appertain to his office or which may from time to time be delegated to him by action of the Local Union or other authorities in the organization.

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ART. XXIII—SUBDIVISION 3
DUTIES OF MEMBERS

Art. XXIII. Subdiv. 3. Section (a). Members of Local Unions shall conform to and abide by the Constitution, Laws, Rules, Obligation and Ritual, and the decisions, rulings, orders and directions of any authority of the International Union empowered by this Constitution to make them. Each member shall keep the Recording-Corresponding Secretary properly and promptly notified of his residence and any change thereof. Each member shall hire none but those in good standing with a Union having jurisdiction over the work to be done nor purchase commodities without the union label thereon when otherwise possible. Members may upon proper credentials being produced obtain admission to meetings of other Local Unions of the organization.

Art. XXIII. Subdiv. 3. Section (b). The admission to membership in conformity to the Constitution, Obligation and Ritual constitute a contract between the member, his Local Union, the International Union and every other member therein, whereby, in consideration of the benefits bestowed by such membership, he agrees that he will remain a member until expelled: that he will not violate the Constitution, Laws, Rules, Obligation and Ritual, and the decisions, rulings, orders and directions of the International Union or its subordinate branches, nor the trade rules of the locality in which he works; that he will not enter into the employment of any person conditioned on severing his membership with this organization; that upon the termination of his membership he will acknowledge his Obligation to be still binding upon him and refrain from doing any act or deed in violation of the principles, Con-

stitution, Laws, Obligation, Ritual and policies of this Organization, and the decisions, rulings, orders and directions of any authority of the International Union empowered by this Constitution to make them.

Art. XXIII. Subdiv. 3. Section (c). All business transactions and affairs of the International Union, its subordinate subdivisions and officers within the knowledge of any member shall be held, inviolate and private, from persons outside the organization.

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ART. XXIII—SUBDIVISION 5

COMMITTEES

A Local Union may establish such committees as it may desire and delegate specific duties to them. All committees shall render reports promptly to the Local Union and deliver all funds collected or held by them to the Financial Secretary, and perform such other acts and in such manner as the Local Union may from time to time direct.

Other Causes for Fines, Suspensions or Expulsion

Art. XXIII. Subdiv. 7. Section (e). Any officer or member of a Local Union who becomes an habitual drunkard; who wrongs a fellow member or defrauds him; who commits an offense discreditable to the International Union or its subdivisions; who creates dissension among the members; who destroys the interest and harmony of the Local Union; who seeks to dissolve any Local Union or separate it from the general organization; who wilfully slanders or libels an officer or member of the Organization; who violates the trade rules of the locality in which he is working; who fraudulently receives, misapplies, converts or embezzles the funds of any subdivision of the International Union or the monies of any member entrusted to him; who violates his obligation or any section of the Constitution, Rules, Edicts and Ritual of the International Union; who divulges the password to anyone except the officer authorized to receive the same; who is guilty of insubordination; or who refuses to acknowledge or perform the lawful com-

mand of those authorized within the International Union to issue the same, may be disciplined or, upon trial therefor and conviction thereof, be fined, suspended or expelled from his Local Union.

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Trials

Art. XXIII. Subdiv. 7. Section (l). A Local Union shall have the power to discipline, fine, suspend or expel its members, upon causes provided in this Article, and provided further that any member charged with the offenses designated in this Article shall be tried within the jurisdiction of the Local Union where said offense was committed, in which case a copy of the verdict shall be sent to the Local Union to which the member charged belongs.

Art. XXIII. Subdiv. 7. Section (m). All charges must be preferred in writing, signed by the complainant and filed with the Recording-Corresponding Secretary and read by the Recording-Corresponding Secretary at the next succeeding meeting following the filing of same. Immediately upon filing of such charges the Recording-Corresponding Secretary shall notify the defendant in writing, enclosing a copy of said charges, and of the date set for the filing of the answer or defense or the entering of a plea by the defendant, which date shall be not less than two nor more than four weeks thereafter.

Art. XXIII. Subdiv. 7. Section (n). After the pleadings are filed or the plea entered or the time elapsed within which the same must be filed or entered, the President shall cause the parties to be notified of the trial date, which must be the next regular meeting thereafter. Unless a request for postponement of the trial shall have been made to and granted by the President, the trial shall proceed upon the date set. Complainants and defendants may present their own cases or by counsel selected from among the membership of the International Union of Operating Engineers. After all the evidence is in and a full and impartial hearing has been had upon the issues, the President

shall distinctly state the charge or charges and present the matter to the members present at said meeting for a vote.

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ART. XXIII—SUBDIVISION 11
RELATIONS WITH EMPLOYERS

Grievances and Procedures

Art. XXIII. Subdiv. 11. Section (a). No action shall be taken by any Local Union, Local Executive Board, Officer, Committee or Business Representative of a Local Union affecting the relations between an employer and the Local Union or its members unless authorized as hereinafter provided.

Art. XXIII. Subdiv. 11. Section (b). When a difficulty or a dispute arises between an employer and a member or members in good standing in a Local Union such member or members shall first report the same to the Business Representative or the Local Executive Board or the Local Union. The Business Representative, Local Executive Board or the Local Union shall immediately investigate the facts and confer with the employer with a view of adjusting said difficulty or dispute. If no settlement of the dispute has been effected then the authority invesigating the facts connected with said dispute may, if vested with the power so to do, immediately order and direct any necessary action deemed as required under the circumstances, though the removal of the member or members affected, through strike or by stoppage of all work, or by securing a strike of all such other trades and workmen as can be obtained. Where Local Unions are affiliated with Councils of Labor and like bodies in their respective communities such Local Unions may take such action upon grievances or disputes between employers and employes as shall be recommended or authorized by the Labor Councils and other bodies with which they may be associated regardless of whether such grievances or disputes arise between members of a Local Union in this organization or members of any other union, with employers.

Art. XXIII. Subdiv. 11. Section (c). No Local Union through its committee, Local Executive Board or Business Representative shall attempt to take or take any action involving a rupture of relations existing under a legal contract with any employer or declare a strike where such contract exists except upon the following reasons, viz:

1. Assisting trade unions or other union workmen.
2. Assisting Councils of Labor or other bodies with which the Local Union is affiliated.
3. Violation by the employer of the written contract.
4. To protect the craft jurisdiction or the teritorial jurisdiction of the Local Union.

Nor shall any such action be attempted or taken unless the same has been sanctioned by the General President of the International Union.

Sanction of the General President.

Art. XXIII. Subdiv. 11. Section (d). If the dispute shall not be settled and the Local Union shall desire assistance or strike benefits from the International Union the General President shall be informed of all the facts thereof, and, if in his opinion the grievance is a just one, he may give his sanction and give the support of the International Union to the action contemplated or already entered into by the Local Union, its Committee, Local Executive Board or Business Representative. If, under any circumstances, the General President shall be represented by a deputy in the investigation of a dispute or a contemplated action or an action that has already been entered into on the part of a Local Union, its Local Executive Board, its committees or its Business Representative, the deputy shall report in detail to the General President and the General President can through a deputy convey such sanction and support required as though present in person.

Contracts.

Art. XXIII. Subdiv. 11. Section (e). All agreements and modifications thereof between Local Unions or the

members thereof and the employers shall require, before becoming effective, the approval of the General President in writing, or by telegraph. An agreement may be consummated for Local Unions by a committee, by the Local Executive Board or the Business Representative, but such agreements as may be consummated for a Local Union shall not become effective until they have been presented and read to the Local Union at its next regular meeting following the date of the execution of the agreement or modification thereof and the membership at such meeting have approved and accepted same. When such approval and acceptance have been obtained then such agreements shall be signed by the Local Union's President and Recording-Corresponding Secretary.

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RULINGS ON REQUESTS

By THE COURT:

I will now rule on plaintiff's requests.

No. 1 is refused as stated.

No. 2 is refused as stated.

Nos. 3, 4 and 5 are refused as stated.

No. 6 is affirmed.

No. 7 is refused as stated.

No. 8 is affirmed.

Nos. 9 and 10 are refused as stated.

Nos. 11 and 12 are affirmed.

Nos. 13, 14 and 15 are refused as stated.

No. 16 is affirmed.

No. 17 is affirmed, deleting the words "relatively few" in the second line.

Nos. 18 and 19 are refused as stated.

Nos. 20 and 21 are affirmed.

No. 22 is denied.

No. 23 is affirmed.

No. 24 is refused as stated.

Nos. 25 to 35 inclusive are denied.